

**AGENDA**  
**STATE BOARD OF AGRICULTURE**  
**DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**

Thursday, January 26, 2023  
10:00 a.m.

2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105

1. Call to Order
2. Roll Call
3. Declaration of a Quorum
4. Introduction of Guests
5. Consideration and Proposed Action on Minutes of Regular Board Meeting of December 7, 2022.
6. Consideration and Proposed Action on Division Reports
  - A. Administrative Services – Dan Ridings  
Summary of present financial condition of the agency and monthly activities in the following areas: Finance, Human Resources, Fleet Management, Data Processing and Agriculture Law Enforcement Investigators.
  - B. Laboratory Services – Wade Krivanek  
Summary of analytical activities, customer contacts, and other pertinent information related to laboratory operations.
  - C. Forestry Services – Mark Goeller  
Summary of activities and accomplishments in resource protection and rural fire defense, forest management and regeneration, water quality, urban forestry, forestry education and law enforcement. Includes statistics on wildfires and law enforcement activity and narrative of forestry program highlights for the month.
  - D. Consumer Protection Services – Kenny Naylor  
Addresses stop sale orders on insect and disease infested crops, phytosanitary certificates issued, insect survey summaries, pesticide registration updates, pesticide inspections, seed program and seed laboratory updates, weights and measures reports, scanner inspections, grain warehouses and meetings attended by division personnel.

- E. Animal Industry Services – Rod Hall, DVM  
Addresses information and activities of staff related to control and eradication of animal diseases affecting livestock and livestock market audits. It also addresses emergency response preparation and education for response to any outbreak of foreign, emerging and/or eradicated disease.
- F. Wildlife Services – Scott Alls  
Summary of activities and accomplishments in wildlife damage management to protect state resources such as agriculture, property, natural resources, and public health and safety from wildlife damage and wildlife threats.
- G. Agricultural Statistics – Troy Marshall  
Addresses the current crop conditions and livestock inventory numbers. Also included is a report on the number of information requests received, reports released during the previous month, reports to be released during the current month, and the meetings attended by Division personnel during the previous month.
- H. Market Development Services – Meriruth Cohenour  
Summary of the accomplishments, projects and events of Ag in the Classroom, Agritourism, Communications, Domestic Marketing (Made in Oklahoma, Made in Oklahoma Coalition), Diversified Marketing (Farmers Market, Specialty Crop Block Grants, Farm to School), International Marketing, Market News and Rural Economic Development.
- I. Agricultural Environmental Management Services – Teena Gunter  
Executive summary that addresses Swine Feeding Operations, registered poultry feeding operations and poultry waste applicators, National Pollutant Discharge Elimination System (NPDES), plus agricultural composting facilities, and Commercial Pet Breeders and Shelters. Includes numbers and statistics on complaint investigations, technical assistance contacts, inspections, enforcement/compliance activities and seminars/meetings attended by Division personnel for the month.
- J. Office of General Counsel – Teena Gunter  
Summarizes activities of the division, including rules, collections, legal research, meetings, support for programs, contracts, employment issues, open records requests, farming and ranching incorporations, and informal and formal enforcement actions before the Board, district court, and federal court.
- K. Food Safety Services – Scott Yates  
Addresses the inspection of meat, poultry, egg, and milk processing facilities to determine compliance with regulatory standards.
- L. Ag Communications and Outreach Update – Lee Benson

7. Consideration and Proposed Action on Purchases/Contracts
8. Consideration and Proposed Action on Cases Resolved by Stipulations

**Consumer Protection Services**

**Ag Solutions, LLC, P. O. Box 729, Satanta, Kansas**  
**Arnett Grain & Feed, P. O. Box 1567, Shawnee, Oklahoma**  
**Central Custom Ag Aviation, 3195 CR 1140, Hydro, Oklahoma**  
**Landmark Outdoor Services, 10901 E. 11<sup>TH</sup> Street, Tulsa, Oklahoma**  
**Orkin, LLC, 3620 S. Moulton Drive, Oklahoma City, Oklahoma**  
**Rowdy Lawn, 6300 S. Choctaw Road, Choctaw, Oklahoma**  
**Texoma AG, LLC, 1928 Bishop Road, Bowie, Texas**  
**Martin Williams, 12250 X Road, Red Rock, Oklahoma**

**\*\*Possible Executive Session (if approved by the required number of members present):**  
As authorized by the Oklahoma Open Meeting Act in Section 307(B)(8) of Title 25 of the Oklahoma Statutes, an executive session may be held for the purpose of “[e]ngaging in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act.”

9. Consideration and Proposed Action on Cases Resolved by Consent Order

**Consumer Protection Services**

**Deterding Aerial, LLC, 701 West Cedar Drive, Pond Creek, Oklahoma**  
**Eckles Aircraft, LLC, 330 Airport Lane, Holdenville, Oklahoma**  
**Escott Aerial Spraying, 140 Airport Drive, Nowata, Oklahoma**

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10. Consideration and Proposed Action on Proposed Permanent Rules

**ADMINISTRATIVE OPERATIONS**

**Title 35. Oklahoma Department of Agriculture, Food, and Forestry**  
**Chapter 1. Administrative Operations**  
**Subchapter 10. Requirements for Department Programs**  
**35:1-10-6. Date of federal regulations incorporated [AMENDED]**

**FEES**

**Title 35. Oklahoma Department of Agriculture, Food, and Forestry**  
**Chapter 2. Fees**  
**Subchapter 3. Fee Schedules**  
**35:2-3-5. Fees for meat inspection overtime [AMENDED]**  
**35:2-3-29. General animal industry supply fees [AMENDED]**

**AGRICULTURAL PRODUCTS**

**Title 35. Oklahoma Department of Agriculture, Food, and Forestry**  
**Chapter 10. Agricultural Products**

**Subchapter 1. General Provisions**

**35:10-1-3. Handbook and publication editions [AMENDED]**

**ANIMAL INDUSTRY**

**Title 35. Oklahoma Department of Agriculture, Food, and Forestry**

**Chapter 15. Animal Industry**

**Subchapter 9. Livestock Special Sales**

**Part 3. Livestock Special Sales**

**35:15-9-7. Application [AMENDED]**

**35:15-9-8. Written records [AMENDED]**

**35:15-9-9. Submission of record sales [AMENDED]**

**Subchapter 13. Testing and Inspection for Disease and Release of Livestock at Auction Markets**

**35:15-13-3. General requirements for a livestock auction market [AMENDED]**

**35:15-13-6. Movement of livestock through livestock auction markets [AMENDED]**

**35:15-13-7. Specific approval of livestock auction markets [AMENDED]**

**Subchapter 22. Swine Pseudorabies and Brucellosis**

**Part 7. Requirements for Swine Exhibitions**

**35:15-22-71. Exhibition requirements [AMENDED]**

**Subchapter 34. Feral Swine**

**35:15-34-13. License fees [AMENDED]**

**Subchapter 44. Farmed Cervidae**

**35:15-44-19. Entry and export requirements [AMENDED]**

**35:15-44-20. Animal identification requirements [AMENDED]**

**Subchapter 47. Chronic Wasting Disease (CWD) in Cervids**

**Part 7. Interstate Movement Requirements**

**35:15-47-18. Minimum CWD requirements for interstate movement of cervids [AMENDED]**

**WATER QUALITY**

**Title 35. Oklahoma Department of Agriculture, Food, and Forestry**

**Chapter 17. Water Quality**

**Subchapter 5. Registered Poultry Feeding Operations**

**35:17-5-3. Registration, Nutrient Management Plan (NMP) required [AMENDED]**

**35:17-5-5. Nutrient Management Plan [AMENDED]**

**APPENDIX B. Nutrient Management Plan Requirements When Using Poultry Litter and Other Nutrient Resources [NEW]**

**FORESTRY**

**Title 35. Oklahoma Department of Agriculture, Food, and Forestry**

**Chapter 20. Forestry**

**Subchapter 3. Rural Fire Protection Program Fund Act**

**Part 3. Financial Assistance Program**

**35:20-3-9. Determination of financial assistance program grant amount [AMENDED]**

**35:20-3-12. Financial Assistance Program grant administration [AMENDED]**



## **CONSUMER PROTECTION**

**Title 35. Oklahoma Department of Agriculture, Food, and Forestry**

**Chapter 30. Consumer Protection**

**Subchapter 17. Combined Pesticide**

**Part 3. Certification, Conduct of Examinations, and Recertification**

**35:30-17-4. Examination of applicants for certification [AMENDED]**

**Part 5. Prerequisites for Licensing**

**35:30-17-10. Application insurance requirements [AMENDED]**

**Part 10. Minimum Standards for Pesticides**

**35:30-17-22.2. Pesticide enforcement [AMENDED]**

**Part 11. Standards for Application of Pesticide**

**35:30-17-25. Pesticide application by certified applicators, noncertified applicators, service technicians, and private applicators [AMENDED]**

**Part 17. Minimum Standards for Termite Work for Preconstruction (Pretreats) and New Construction**

**35:30-17-73. Concrete Slabs [AMENDED]**

**Subchapter 45. Scrap Metal Dealers**

**35:30-45-9. Purchases, sales, and records [AMENDED]**

## **FOOD SAFETY**

**Title 35. Oklahoma Department of Agriculture, Food, and Forestry**

**Chapter 37. Food Safety**

**Subchapter 1. Eggs**

**35:37-1-2. Methods of grading [AMENDED]**

**Subchapter 3. Meat Inspection**

**Part 1. General Provisions**

**35:37-3-1. Incorporation by reference of federal meat inspection regulations [AMENDED]**

**35:37-3-3. Deleted regulations [AMENDED]**

**Subchapter 5. Poultry Products Inspection**

**Part 1. General Provisions**

**35:37-5-1. Definitions and incorporation by reference of federal poultry inspection regulations [AMENDED]**

**35:37-5-2. Deleted regulations and exemptions [AMENDED]**

**Subchapter 13. Milk and Milk Products**

**35:37-13-2. Incorporations by reference [AMENDED]**

**35:37-13-7. Inspection and permit fees [AMENDED]**

**35:37-13-8. Incidental sales [NEW]**

**Subchapter 15. Organic Products**

**35:37-15-2. The Adoption of NOP Standards [AMENDED]**

**Subchapter 17. Produce safety**

**35:37-17-3. Incorporation by reference of federal produce safety regulations [AMENDED]**

**Subchapter 19. Homemade Food**

**35:37-19-2. Definitions [AMENDED]**

**35:37-19-3. Sale and delivery requirements [AMENDED]**

**35:37-19-6. Registration fee [NEW]**

## **MARKET DEVELOPMENT**

**Title 35. Oklahoma Department of Agriculture, Food, and Forestry**

**Chapter 40. Market Development**

**Subchapter 17. Agritourism**

**35:40-17-2. Definitions [AMENDED]**

**35:40-17-3. Eligibility and registration [AMENDED]**

**35:40-17-4. Additional requirements for hunting facilities [AMENDED]**

**35:40-17-6. Additional requirements for winery and brewery facilities [AMENDED]**

**35:40-17-7. Additional requirements for petting farm facilities [NEW]**

**35:40-17-8. Additional requirements for pumpkin picking facilities [NEW]**

**35:40-17-9. Additional requirements for maze facilities [NEW]**

**35:40-17-10. Additional requirements for Christmas tree facilities [NEW]**

**35:40-17-11. Additional requirements for bison facilities [NEW]**

**Subchapter 21. Oklahoma Healthy Food Financing Program**

**35:40-21-3. Applicant eligibility [AMENDED]**

**Subchapter 23. Made in Oklahoma**

**35:40-23-2. Definitions [AMENDED]**

**35:40-23-3. Applicant eligibility [AMENDED]**

**35:40-23-4. Product eligibility [AMENDED]**

**35:40-23-4.1. Service eligibility [NEW]**

**35:40-23-5. Application [AMENDED]**

**35:40-23-6. Logo [AMENDED]**

**35:40-23-7. Renewal and revocation [AMENDED]**

**35:40-23-8. Product endorsement [AMENDED]**

## **AGRICULTURE POLLUTANT DISCHARGE ELIMINATION SYSTEM**

**Title 35. Oklahoma Department of Agriculture, Food, and Forestry**

**Chapter 44. Agriculture Pollutant Discharge Elimination System**

**Subchapter 1. Agriculture Environmental Permitting and AGPDES**

**Part 1. General Provisions**

**35:44-1-3. Date of federal regulations incorporated [REVOKED]**

**Subchapter 3. Permit Conditions and Requirements**

**35:44-3-3. Date of federal regulations incorporated [REVOKED]**

## **AQUACULTURE**

**Title 35. Oklahoma Department of Agriculture, Food, and Forestry**

**Chapter 50. Aquaculture**

**35:50-1-30. Initial licensing requirements [AMENDED]**

**35:50-1-31. Renewal licensing requirements [AMENDED]**

## **COMMERCIAL PET BREEDERS AND ANIMAL SHELTERS**

**Title 35. Oklahoma Department of Agriculture, Food, and Forestry**

**Chapter 55. Commercial Pet Breeders and Animal Shelters**

**Subchapter 3. Standards of Care**

**35:55-3-1. Incorporation by reference [AMENDED]**

**Subchapter 9. Seizure and Impoundment [NEW]**

**35:55-9-1. Seizure and impoundment [NEW]**

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11. Next Board meeting scheduled for **Wednesday, March 8, 2023**, at Oklahoma City.
12. Old Business
13. New Business – Under the Open Meeting Act, this agenda item is authorized only for matters not known about or which could not have been reasonably foreseen prior to the time of posting the agenda or any revised agenda.
14. Adjournment

*\*Members of the Board and staff from ODAFF may join for lunch. Board Members, staff, and the public may discuss program issues during lunch; no votes or action will be taken during the luncheon.*

**OFFICIAL PROCEEDINGS  
OF THE STATE BOARD OF AGRICULTURE  
DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**

Oklahoma City, Oklahoma  
December 7, 2022

The Oklahoma State Board of Agriculture met in regular session at 10:01 a.m., December 7, 2022, in the Agriculture Building, Oklahoma City, Oklahoma. Written notice of this meeting was filed with the Secretary of State. A notice was posted at the Agriculture Building 24 hours prior to the meeting setting forth thereon the date, time, place and agenda for the meeting and an agenda was posted on the agency website.

Members Present:     Joe Farris  
                               Brent Bolen  
                               Blayne Arthur  
                               Clay Burtrum  
                               Nocona Cook

Others Present:         Kandi Batts, Executive Secretary  
                               JanLee Rowlett, Deputy Commissioner  
                               Dan Ridings, Director, Administrative Services  
                               Wade Krivanek, Director, Laboratory Services  
                               Andy James, Forestry Services  
                               Kenny Naylor, Director, Consumer Protection Services  
                               Dr. Rod Hall, Director, Animal Industry Services  
                               Scott Alls, Director, Wildlife Services  
                               Meriruth Cohenour, Director, Market Development  
                               Teena Gunter, Director, Agricultural Environmental  
   Management Services & Office of General Counsel  
                               Scott Yates, Director, Food Safety Services  
                               Audrey Ochsner, Public Engagement Specialist  
                               Lee Benson, Public Information Officer  
                               Devin Morton, Ag Youth Council Member  
                               Jason Murray, Governor's Office

Mrs. Arthur called the meeting to order, and a quorum was declared.

A motion was made by Mr. Cook, seconded by Mr. Bolen, to approve the minutes of the regular meeting of October 26, 2022, as presented.

The vote was as follows:

Farris	Aye
Bolen	Aye
Arthur	Aye
Burtrum	Abstain
Cook	Aye

The motion carried.

A motion was made by Mr. Bolen, seconded by Mr. Burtrum, to approve the division reports as submitted and amended.

The vote was as follows:

Farris	Aye
Bolen	Aye
Arthur	Aye
Burtrum	Aye
Cook	Aye

The motion carried.

A motion was made by Mr. Burtrum, seconded by Mr. Farris, to approve the following purchases/contracts as submitted and contained on pages 4 and 5.

The vote was as follows:

Farris	Aye
Bolen	Aye
Arthur	Aye
Burtrum	Aye
Cook	Aye

The motion carried.

A motion was made by Mr. Cook, seconded by Mr. Burtrum, to approve the Proposed Action on Stipulations as submitted and contained on pages 6 and 7.

**Consumer Protection Services**

**4 Star Treatment Pest Control, P. O. Box 3802, Bartlesville, Oklahoma**

**Cedar Ridge Aviation, LLC, P. O. Box 37, Knox City, Texas**

**Blake Hall, 24736 E. 670 Road, Wagoner, Oklahoma**

**Tony Kodesh, 4800 CR 110, Red Rock, Oklahoma**

**Lawnpro Outdoor Services, 7870 E. 126<sup>TH</sup> ST., S. Apt 312, Bixby, Oklahoma**

**Carolyn Leck, 814 S. Duane Ave., El Reno, Oklahoma**

**James Neal, 5600 Free Ferry Road, Fort Smith, Arkansas**

**Total Environment, Inc., 16301 N. Rockwell Ave. Edmond, Oklahoma**

**Tri-Rotor Services, LLC, 9170 E. Road 2, Ulysses, Kansas**

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The vote was as follows:

Farris	Aye
Bolen	Aye
Arthur	Aye
Burtrum	Aye
Cook	Aye

The motion carried.

There is no Old business presented for the Board to take action upon. Mr. Bolen moved, Mr. Farris seconded, that the meeting be adjourned at 11:19 a.m.

By \_\_\_\_\_  
President

ATTEST: \_\_\_\_\_  
Executive Secretary

# DECEMBER 7, 2022 BOARD MEETING

## **PURCHASES/CONTRACTS**

### **Administrative Services**

#### **FY23 – Hard Drives and Additional Ram (Upgrading Components) - \$6,000.00**

Purchase of Solid State Hard Drives and Additional Ram to upgrade thirty (30) computers; this is in an efforts to update the current computers that are running slow. This a continuation of a previous project that is already underway and has been successful in extending the life of previous computers that were aging out.

#### **FY23 – Security Camera Upgrade - \$63,000.00**

This purchase is to upgrade the entire ODAFF security camera system infrastructure to IP video surveillance cameras. This will allow us to purchase Hanwha Techwin cameras, VMS Salient/Complete view software. This entails the replacement of (14) fixed analog cameras, (14) 2mp IP cameras, (2) Analog PTZ outdoor cameras, (2) IP PTZ Cameras, (5) 2mp indoor cameras, (1) Multisensor 360 degree camera, and (14) 5mp exterior bullet cameras all within the OMES state standard.

The current system is outdated, and many cameras do not function, and replacement parts have become a significant issue. Without this upgrade we will continue to use this outdated system which may be problematic in instances of a security breach as the current hardware and software is unreliable at times. We have recently had instances of vandalism to State property, we were unable to utilize on the security cameras that are currently in place to help in this matter.

### **Animal Industry Services**

A contract between Iowa State University and Oklahoma Department of Agriculture, Food and Forestry (ODAFF). We will receive \$15,000 from the USDA through ISU to support ODAFF as US Swine Health Improvement Plan (US SHIP) Official State Agency.

### **Food Safety Services**

#### **VWR – \$5,550.00**

Purchase 47CF Refrigerator for Dairy Lab. This is a double sliding door refrigerator to hold reagents and prepared media. With the increased volume of meat and dairy samples, we are having to share a walk-in refrigerator. This will be 100% reimbursed from the Dairy Grant for equipment.

### **Forestry Services**

FY23- \$200,000 - Purchase firefighting equipment and clothing for resale to Rural Fire Departments through the Revolving Equipment Fund. This program allows firefighters to buy equipment and personal protective equipment at a reduced cost. **Justification:** Without this approval and this program, rural fire department costs to purchase necessary equipment and supplies would increase.

### **Market Development Services**

FY2023 – National Restaurant Association Show – booth rental – cost share basis for 3 Made in Oklahoma companies - \$15,475.00

FY2023 – Veteran/Young Farmer Grant – Wyatt Catron - \$10,000.00

FY2023 – Agriculture Event Grant – Oklahoma Youth Expo – Ag Mechanics Wood & Tractor Division - \$6,000.00

FY2023 – Purchase of Oklahoma Grown Farmers Market bags for OK Grown Markets. - \$23,000.00

FY2023 – USDA has provided a Local Food for Schools (LFS) Grant to ODAFF with the objective of providing food assistance purchases of domestic local foods for distribution to schools. Effective: 11/1/22 - 4/30/24 - \$3,002,891.00.

Justification: This project is entirely funded by the USDA Agricultural Marketing Service Local Food for Schools Cooperative Agreement Program (LFS). With funding made available through [USDA's Commodity Credit Corporation](#), USDA will help states deal with the challenges of supply chain disruptions brought on by the pandemic. Through the LFS program, USDA will award funds to states for food assistance purchases of domestic local foods for distribution to schools. This program will strengthen the food system for schools by helping to build a fair, competitive, and resilient local food chain, and expand local and regional markets with an emphasis on purchasing from historically underserved producers and processors. If this proposed expense is not approved and therefore the project is not completed, the State not only loses money immediately that is important to the school districts throughout the state, but also runs the risk of not being awarded money from the USDA Agricultural Marketing Service in the future.

### **Wildlife Services**

\$158,000 - ODAFF Wildlife Services is requesting approval to purchase (3) 2022 Ford F150 Crew Cab 4x4 truck and (1) Chevrolet C1500 Silverado 4x4 truck. These are replacements to the fleet of vehicles that have high mileage and will be used for field staff in completing their duties. Not approving will result in excessive vehicle repairs.



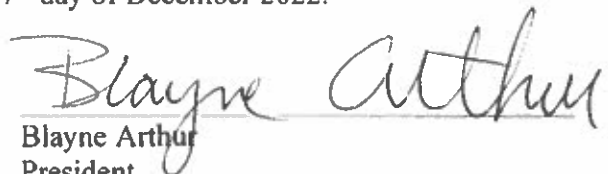
**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**APPROVAL OF CASES**

ON THIS 7<sup>th</sup> day of December 2022, the Office of General Counsel of the Oklahoma Department of Agriculture, Food, and Forestry brought for consideration before the State Board of Agriculture those certain cases summarized on Exhibit A hereto which cases have been resolved by stipulation or consent order. The attached Exhibit A summarizes each action by case name, case number, case type and amount received as a stipulated administrative penalty or by consent order.

**ACCORDINGLY, IT IS THEREFORE ORDERED** by the State Board of Agriculture that the resolution of each of the cases summarized on Exhibit A hereto is hereby approved in all aspects; that this order shall be deemed the final agency order for each such case; and that the penalty imposed by each such stipulation or consent order is hereby adopted and incorporated herein by reference to Exhibit A hereto.

WITNESS My Hand and Official Seal this 7<sup>th</sup> day of December 2022.

  
Blayne Arthur  
President  
State Board of Agriculture

**Exhibit A**  
**Board of Agriculture**  
**December 7, 2022**

**Cases Resolved by Stipulation**

**Consumer Protection Services**

<b><u>Name</u></b>	<b><u>File No.</u></b>	<b><u>Division</u></b>	<b><u>Amount</u></b>
4 Star Treatment Pest Control	OGC-21-589	CPS	\$400.00
Cedar Ridge Aviation, LLC	OGC-22-537	CPS	\$4,000.00
Blake Hall	OGC-22-508	CPS	\$750.00
Tony Kodesh	OGC-21-753	CPS	\$500.00
Lawn Pro Outdoor Service	OGC-22-275	CPS	\$500.00
Carolyn Leck	OGC-21-798	CPS	\$250.00
James Neal	OGC-21-776	CPS	\$500.00
Total Environment, Inc.	OGC-22-505	CPS	\$500.00
Tri-Rotor Crop Service	OGC-22-217	CPS	\$1,000.00

# **Oklahoma Department of Agriculture, Food & Forestry**

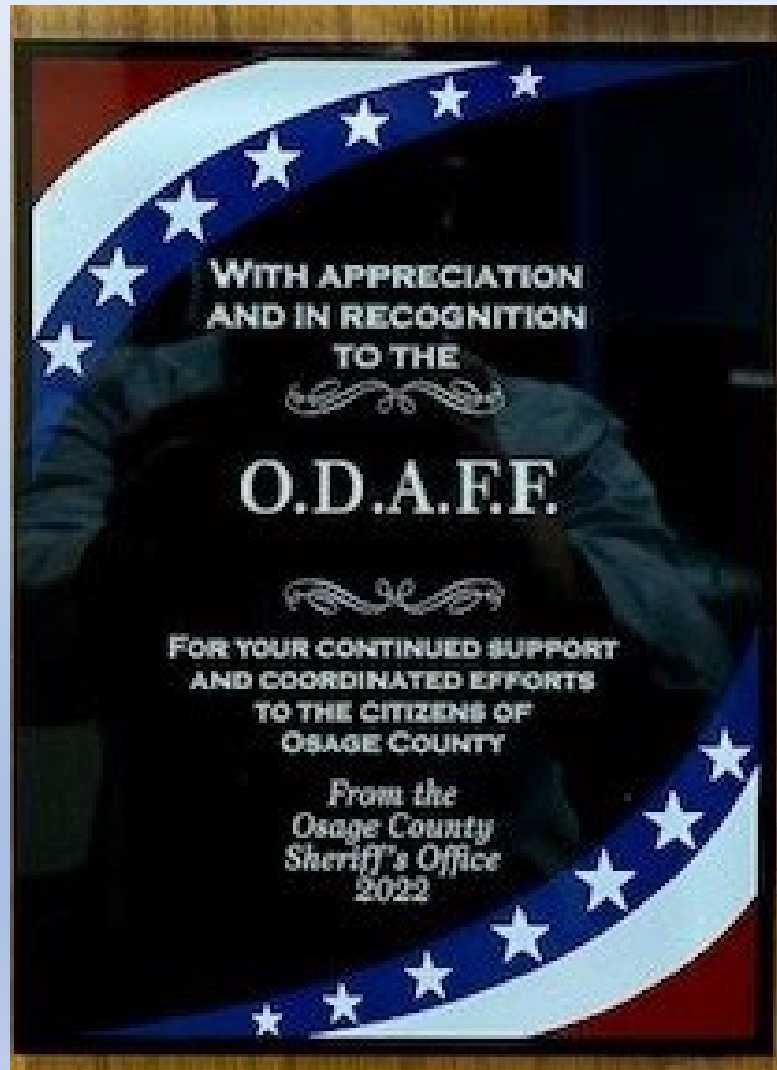
## **January 26, 2023, Board Report**

### **Administrative Services**

# Investigative Services

- Investigative Services received an award of appreciation from the Osage County Sheriff's Office for excellent work done on cases in Osage county by three of our officers:
  - Doug Elliott
  - Ryan Hensley
  - Jamie Wilson

# Investigative Services



# Administrative Services – Investigative Services

## INVESTIGATIVE SERVICES ACTIVITIES DECEMBER 2022

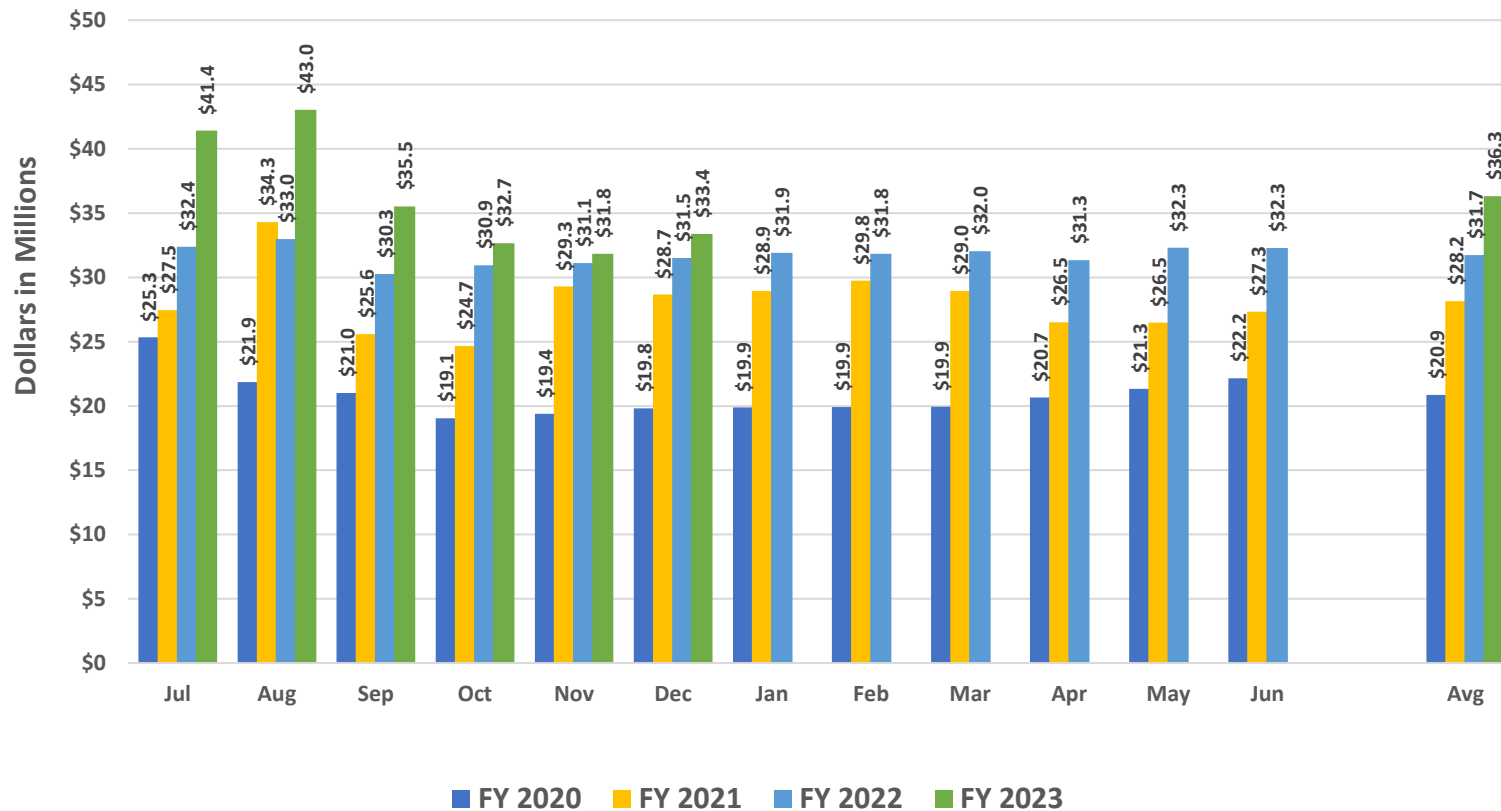


INVESTIGATIONS	DECEMBER	YTD	FYTD
LIVESTOCK	4	53	29
FIRE		36	13
PROPERTY	2	27	16
TIMBER		5	0
AGENCY ASSISTS      ODAFF		4	0
AGENCY ASSISTS      EXTERNAL		16	7
OTHER	1	22	11
TOTAL INVESTIGATIONS OPENED	7	163	76
CLOSED PENDING ADDITIONAL INFORMATION	10	58	33
NO CRIME	7	40	29
NO PROSECUTION		0	0
CLOSED - ASSIST CASE	1	12	5
PRESENTED TO DISTRICT ATTORNEY FOR PROSECUTION	2	18	12
REFERRED FOR ADMINISTRATIVE ACTION		0	0
TOTAL INVESTIGATIONS COMPLETED	20	128	79
COUNTS FILED	2	76	53
VALUE OF LOSSES - ALL CRIMES	\$43,720	\$2,271,948	\$1,032,611
RECOVERED LOSSES - ALL CRIMES	\$51,870	\$1,516,361	\$814,911
NUMBER OF CATTLE REPORTED STOLEN	2	319	256
NUMBER OF CATTLE RECOVERED	15	62	47

# Administrative Services – Investigative Services

- Auto Vehicle Locators, (AVL), are now installed on 126 of our vehicles.
- Procurement audit was recently completed
  - Report stated ODAFF significantly complied with the Central Purchasing Act and the Oklahoma Administrative Code 260 section 115
  - This successful audit allows for the expansion purchasing program

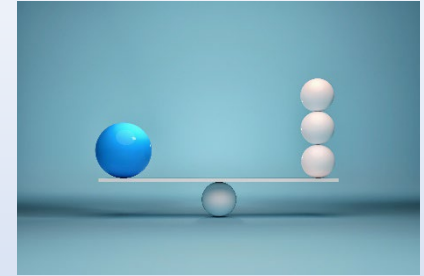
# Available Cash at Month End per Allotment Budget & Available Cash Report Fiscal Year 2020-2023 Months Ending: July 2019 – December 2022



*Note: The amounts above include fund 700, Commodity Storage Indemnity Fund, which had a balance of \$11,273,621 as of 12/31/2022.*

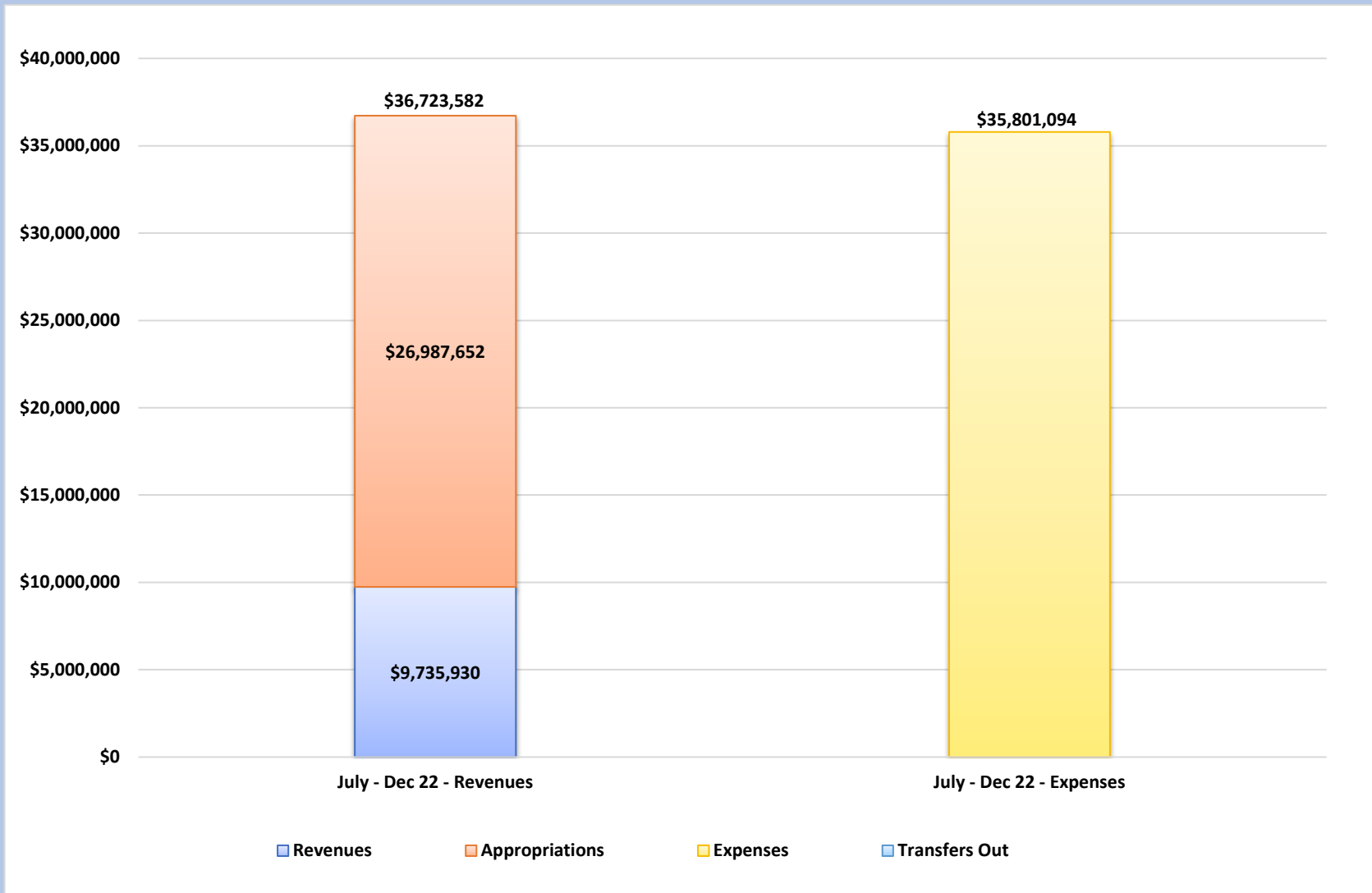


# Administrative Services - Finance

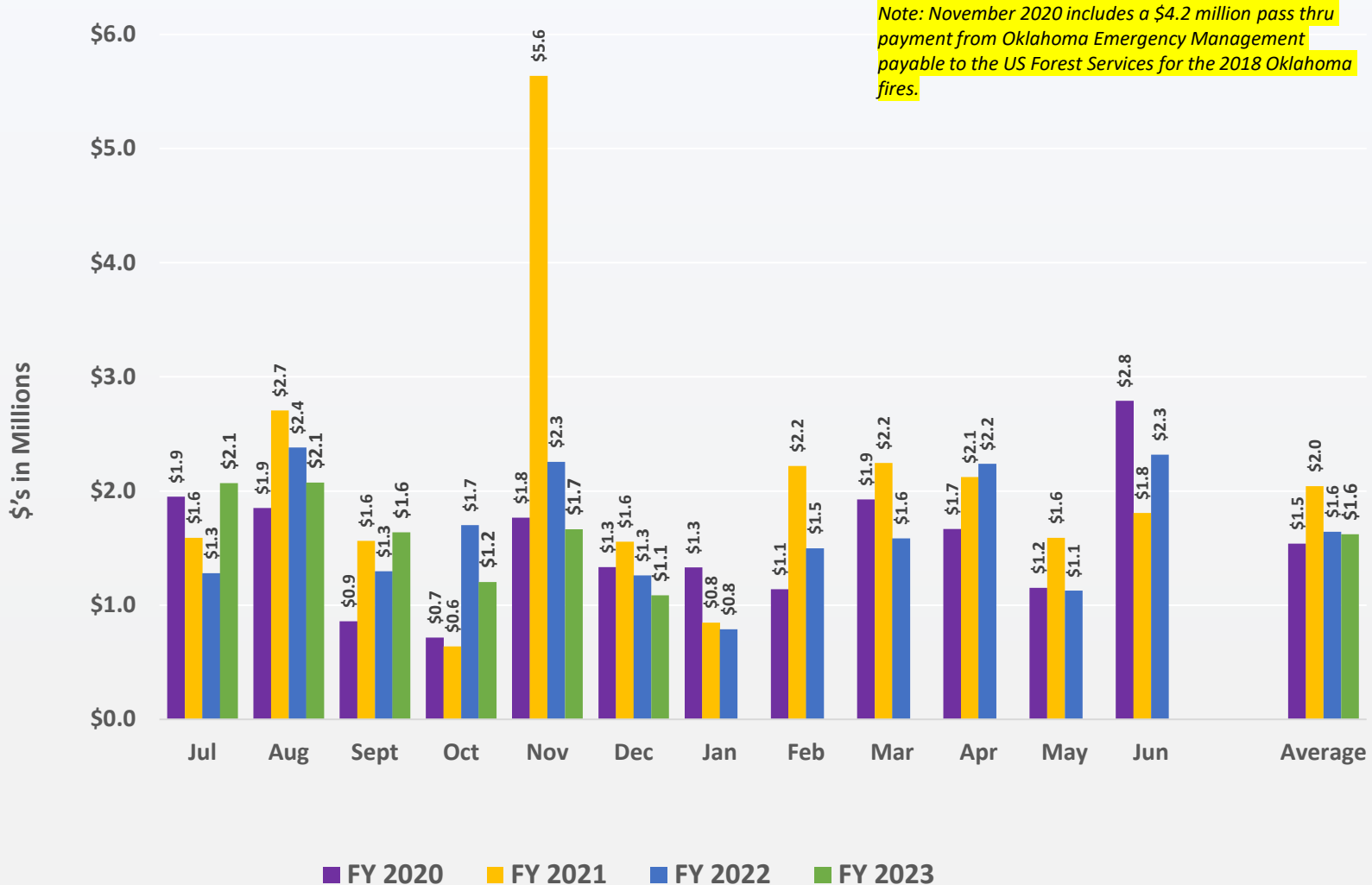


- Cash balance as of 12/31/2022 was \$33.34 million compared to \$31.51 million as of 12/31/2021.
  - Increase of \$1.8 million from the prior year and is primarily attributed to the following:
    - Increase in appropriations and appropriated cash for increases in legislative directed payments
    - Timing of grant receipts

# Total Revenues, Expenses, Transfers In & Out July – December 2022



# Total Revenue by Month July 2019 – December 2022





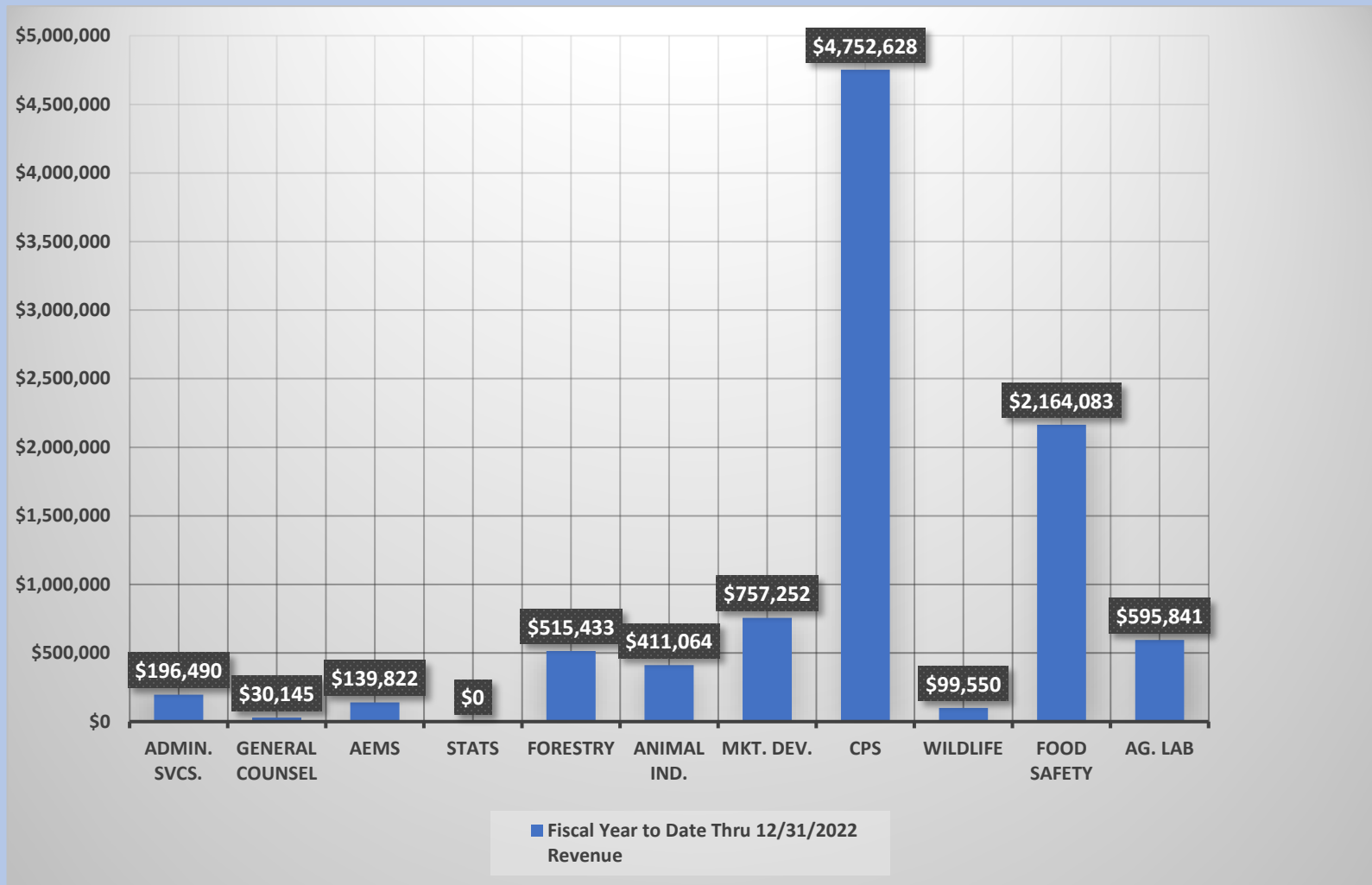
## Revenue By Division July – December 2022

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD AND FORESTRY		
PROGRAM REVENUE SUMMARY		
12/31/2022		
Division	December 2022 Revenue	Fiscal Year to Date Thru 12/31/2022 Revenue
Admin. Svcs.	601	196,490
General Counsel	5,000	30,145
AEMS	2,250	139,822
Stats	-	-
Forestry	68,761	515,433
Animal Ind.	24,606	411,064
Mkt. Dev.	222,845	757,252
CPS	598,214	4,752,628
Wildlife	200	99,550
Food Safety	69,873	2,164,083
Ag. Lab	128,642	595,841
<b>DIVISION TOTAL</b> (see division receipts graph below)	<b>1,120,993</b>	<b>9,662,308</b>
		-
Commodity Storage Indemnity	16,408	92,830
Appropriations	3,095,517	26,987,652
<b>AGENCY TOTAL</b>	<b>4,232,918</b>	<b>36,742,789</b>

*Note: Clearing fund, 79901, is not included in the above table.*



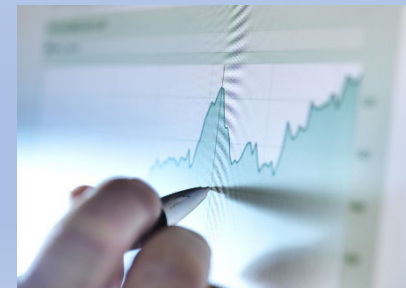
## Revenue By Division July – December 2022



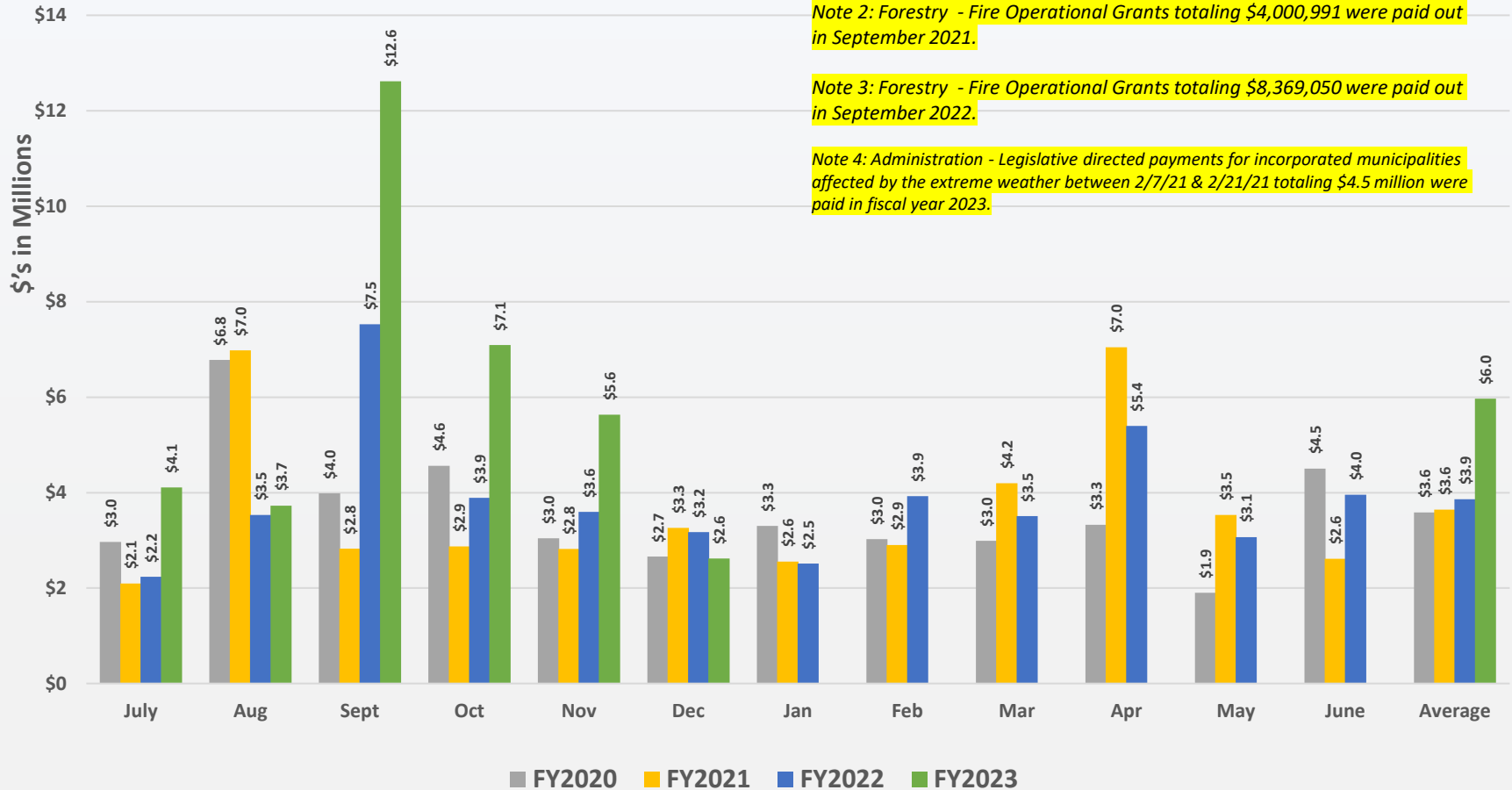
*Note: Clearing fund, 79901, is not included in the above graph.*

# Administrative Services - Finance

- Revenues (excluding appropriations) for July thru December 2022 were \$9.73 million, compared to \$10.17 million for July – December 2021.
- This is a decrease of approximately \$437K
  - Primarily due to the timing of payments received.
  - Reduction in surplus property sales



# Total Expenses by Month July 2019 – December 2022

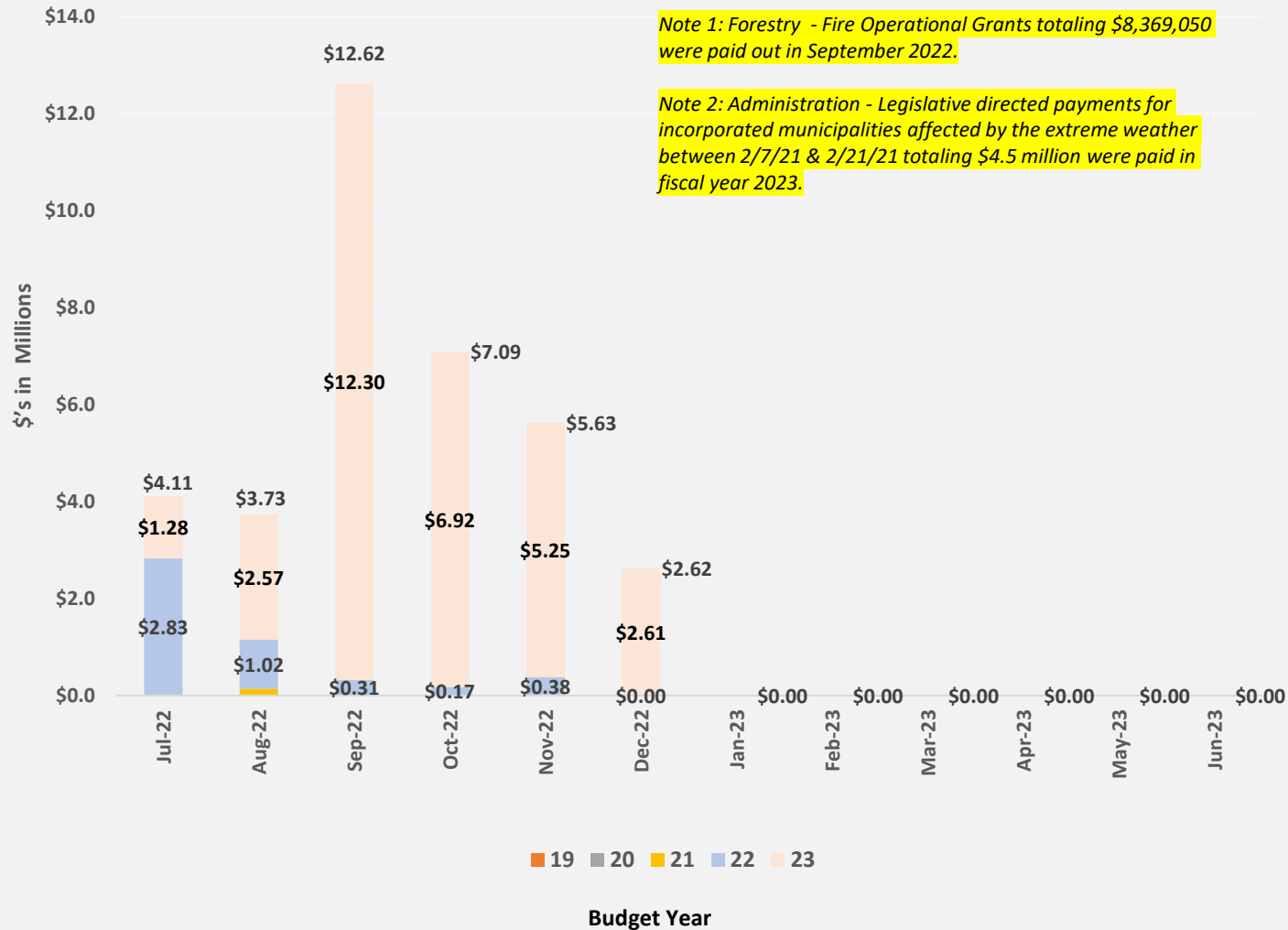


# Administrative Services - Finance

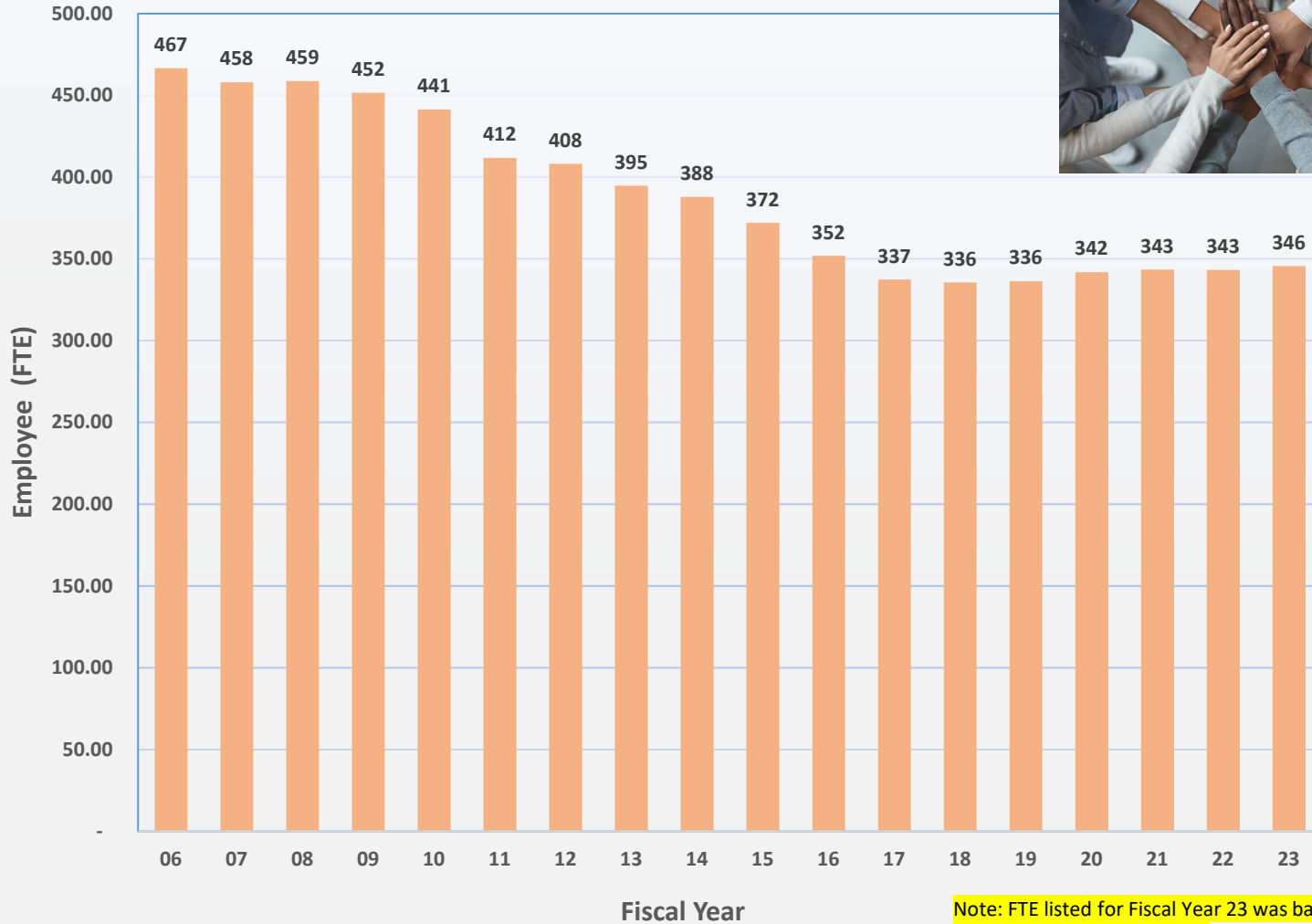
- The expenses for July – December 2022 were \$35.8 million
  - This is an increase of \$11.8 million compared to the prior year and was due to the following:
    - Increase in legislative directed payments for fiscal year 2023
      - Fire Operational Grants
        - \$8.4 million paid out to Oklahoma fire stations
        - Increase of \$4.4 million from the prior year.
      - Increase in 80/20 rural fire operational grants
      - Payments to incorporated municipalities affected by extreme weather events during February 2021
        - \$4.5 million paid out



## FY 2023 Total Expenses by Month with Budget Year



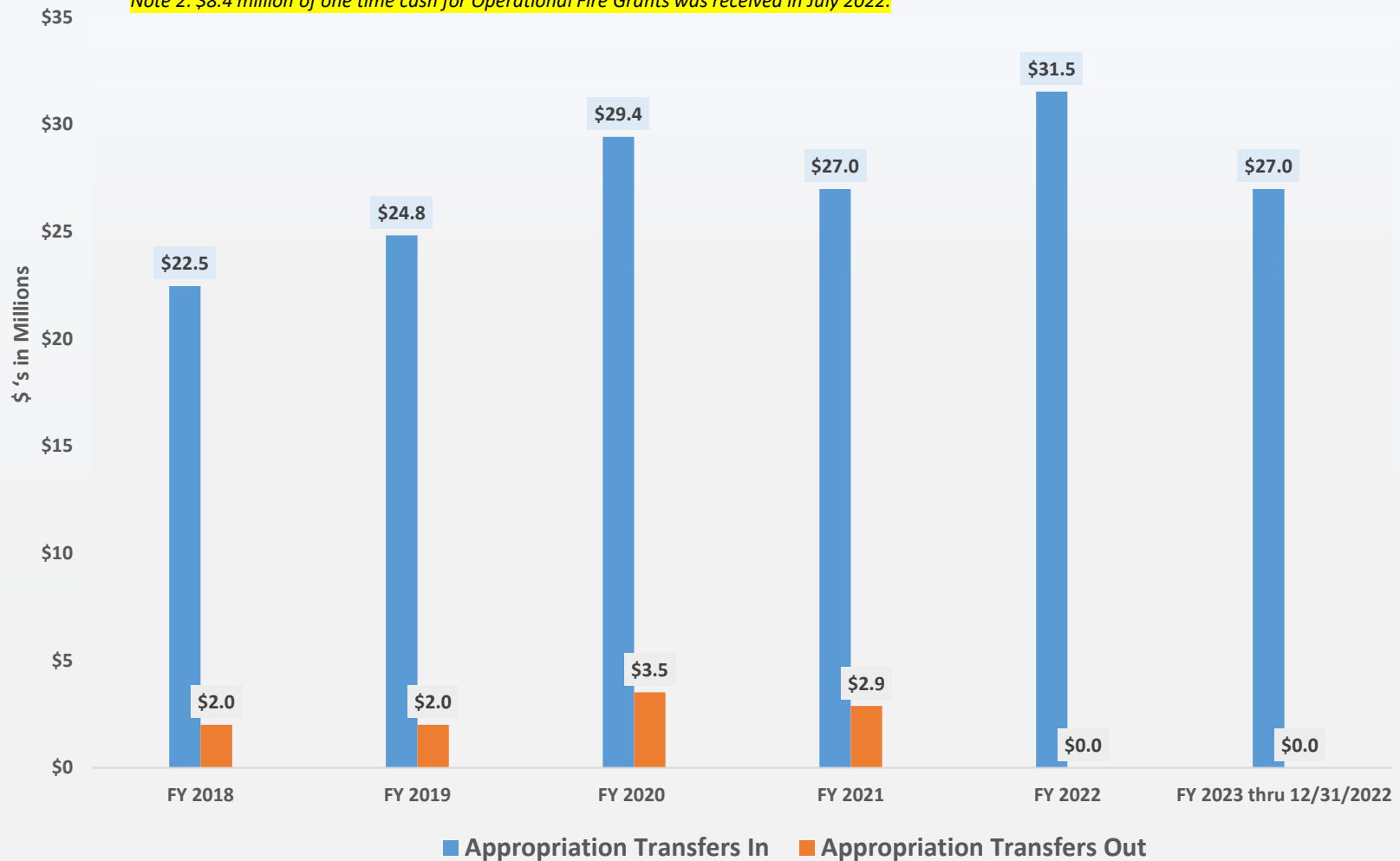
# Employee FTE Totals Fiscal Year FY 2006 – FY 2023

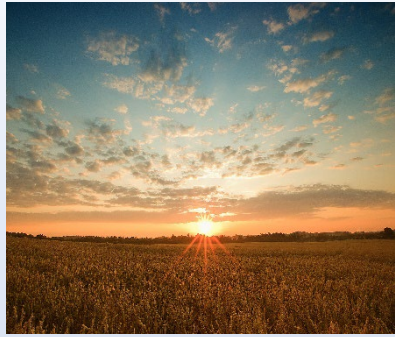


Note: FTE listed for Fiscal Year 23 was based on the FTE as of 12/31/2022.

# Appropriations FY 2018 - thru December 2022

*Note 1: Legislative directed payments to OSU are processed quarterly from operating expense accounts for fiscal year 2022 & 2023.*  
*Note 2: \$8.4 million of one time cash for Operational Fire Grants was received in July 2022.*





## Administrative Services – Commodity Storage Indemnity

Commodity Storage Indemnity			
Investment Report			
As of December 31, 2022			
Investments with Office of State Treasurer			
Cash Management Account:			\$11,273,620.66
<u>FY-2023 Receipts</u>			
		Current Month	YTD
		-----	-----
New		-	-
Interest		\$16,407.79	\$92,829.56
Reinsurance			-
ODAFF Support Services			-
Recovered Salvage		-	-
Elevator Salvage		-	-
Matured Long Term Investments		-	-
		-----	-----
	TOTALS	\$16,407.79	\$92,829.56
		=====	=====

**Oklahoma Department of Agriculture, Food & Forestry**
**Monthly Budget Report - Budget Year 2023**
**As of December 31, 2022**
**Fiscal Year 2023 Annual Budget to Actuals for Budget Year 2023 thru December 31, 2022**

<b>Object Code</b>	<b>Account Description</b>	<b>Annual Budget</b>	<b>Expenditures</b>	<b>Encumbrances &amp; Pre Encumbrances</b>	<b>Available Budget</b>
511	Salary Expense	18,874,528	7,818,586	16,420,794	(5,364,853)
512	Insur.Prem-Hlth-Life,etc	5,973,536	2,071,028	237,192	3,665,316
513	FICA-Retirement Contributions	4,735,708	1,856,795	-	2,878,913
515	Professional Services	3,100,583	712,387	2,000,546	387,650
519	Inter/Intra Agy Pmt-Pers Svcs	30,000	1,293	23,707	5,000
521	Travel - Reimbursements	328,702	85,193	-	243,509
522	Travel - Agency Direct Pmts	365,898	144,920	-	220,978
531	Misc. Administrative Expenses	1,178,520	314,254	313,159	551,107
532	Rent Expense	686,033	219,122	399,915	66,997
533	Maintenance & Repair Expense	1,415,108	499,870	299,471	615,767
534	Specialized Sup & Mat.Expense	1,585,410	503,721	468,992	612,697
535	Production,Safety,Security Exp	201,456	29,854	850	170,752
536	General Operating Expenses	300,860	56,999	-	243,861
537	Shop Expense	603,831	260,446	71,709	271,676
541	Office Furniture & Equipment	3,082,652	246,354	563,761	2,272,537
542	Library Equipment-Resources	932	19	-	913
543	Lease Purchases	1,703,720	851,244	847,064	5,412
544	Livestock-Poultry	-	10,053	-	(10,053)
552	Scholar.,Tuition,Incentive Pmt	-	68	-	(68)
553	Refunds,Idemnities,Restitution	20,000	-	-	20,000
554	Program Reimb,Litigation Costs	4,815,453	9,073,872	3,869,043	(8,127,461)
555	Pmts-Local Gov't,Non-Profits	15,953,116	6,101,906	4,848,477	5,002,733
559	Assistance Pymts to Agencies	8,248,687	-	3,000,000	5,248,687
564	Merchandise For Resale	140,000	-	-	140,000
601	AFP Encumbrances	-	-	1,375,774	(1,375,774)
810	Req Only	-	-	723,435	(723,435)
	<b>Operating Totals</b>	<b>73,344,733</b>	<b>30,857,983</b>	<b>35,463,890</b>	<b>7,022,861</b>

**Oklahoma Department of Agriculture, Food & Forestry**
**Monthly Budget Report - Budget Year 2023**
**As of December 31, 2022**
**Fiscal Year 2023 Annual Budget to Actuals for Budget Year 2023 thru December 31, 2022**

<b>Class Funding</b>	<b>Class Fund Description</b>	<b>Annual Budget</b>	<b>Expenditures</b>	<b>Encumbrances &amp; Pre Encumbrances</b>	<b>Available Budget</b>
19201	GRF - Duties	-	-	0	(0)
19211	Carryover	683,679	-	77,837	605,842
19301	GRF - Duties	37,146,198	10,730,163	21,790,432	4,625,603
20500	Rural Fire Defense Eqp Rev Fd	140,000	-	39,729	100,271
21000	Agriculture Revolving Fund	22,541,010	10,668,007	10,801,420	1,071,584
22500	Enhancemnt & Diversificatn Fnd	150,000	25,333	15,667	109,000
23000	Okla Pet Overpopulation Fund	13,000	13,000	-	-
23500	Animal Friendly Revolving Fund	13,000	2,000	11,000	-
24000	Unwanted Pesticide Disp Fund	350,000	24,573	325,427	-
24500	Rural Fire Revolving Fund	800,000	51,147	480,709	268,144
25600	Ok Viticulture Enology Revl Fd	350,000	18,000	12,750	319,250
26200	Poultry Grading Revolving Fund	1,049,479	425,070	520,042	104,367
28500	Milk & Milk Prod Inspec Rev Fd	379,817	127,917	196,940	54,961
28600	Ag In The Classrm Educ Rvlv Fd	24,000	-	-	24,000
28700	Healthy Food Financing Revl Fd	100,000	-	-	100,000
42000	Specialty Crop Federal Funds	690,000	233,092	834,183	(377,275)
43000	Farm and Ranch Stress Alliance	500,000	125,130	357,754	17,116
57604	Duties	8,414,550	8,414,550	-	0
	<b>Totals</b>	<b>73,344,733</b>	<b>30,857,983</b>	<b>35,463,890</b>	<b>7,022,861</b>

**JANUARY 2023 BOARD REPORT**  
**AGRICULTURE LABORATORY SERVICES**  
**(November 2022 Activities)**

**QUALITY MANAGEMENT SECTION:** (Daniel Tripp, QA Manager; Eli Klimek, Technical Manager)

The General Chemistry Section audit was completed with the audit review meeting held on November 10<sup>th</sup>.

Three new ISO Standards were acquired by the Quality Management Section:

ISO 9000:2015 - on quality management systems fundamentals and vocabulary

ISO 9001:2015 - on quality management systems requirements

ISO 19011:2018 - on guidelines for auditing management systems

The Pesticide Section internal audit was started in December.

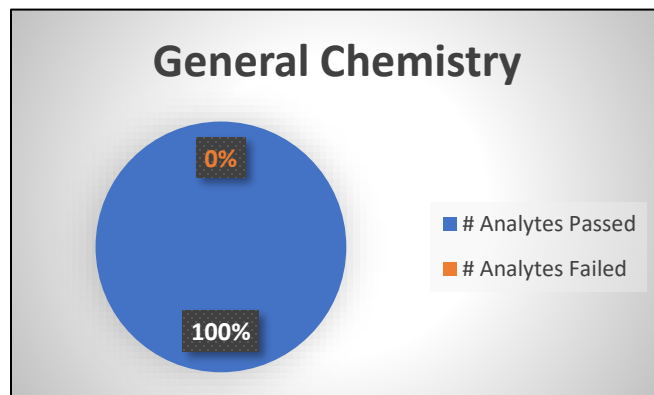
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**PT Results**

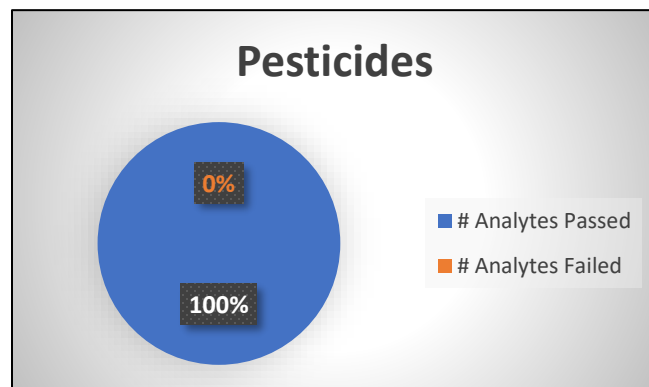
The routine distribution of quality control samples to respective sections of the Laboratory continued. Collection and submission of data to the respective study groups for statistical analysis was conducted.

PT results for November 2022:

General Chemistry	
# Analytes Results Received	30
# Analytes Passed	30
# Analytes Failed	0



Pesticides	
# Analytes Results Received	6
# Analytes Passed	6
# Analytes Failed	0

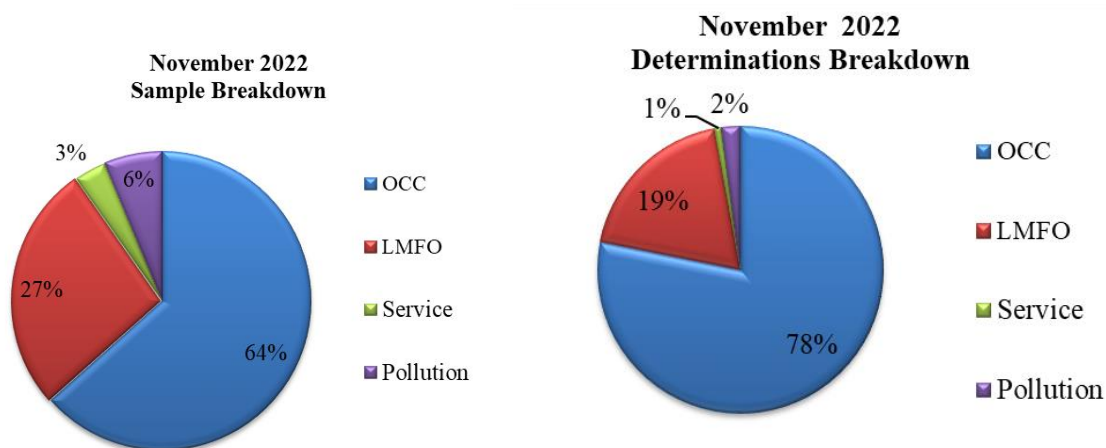


**INORGANIC SECTION:** (Elena Lyon, Environmental/Chemical Laboratory Scientist IV)

In November of 2022 the Inorganic Section completed 175 samples consisting of 1456 determinations, with the following breakdown:

**November 2022 Inorganic Breakdown**

Customer	Samples	Determinations
OCC	111	1162
LMFO	47	282
Service	6	12
Pollution	11	31
<b>Total</b>	<b>175</b>	<b>1456</b>



**DAIRY/FOOD SAFETY SECTION:** (Sharon Swyear, Environmental/Chemical Laboratory Scientist IV)

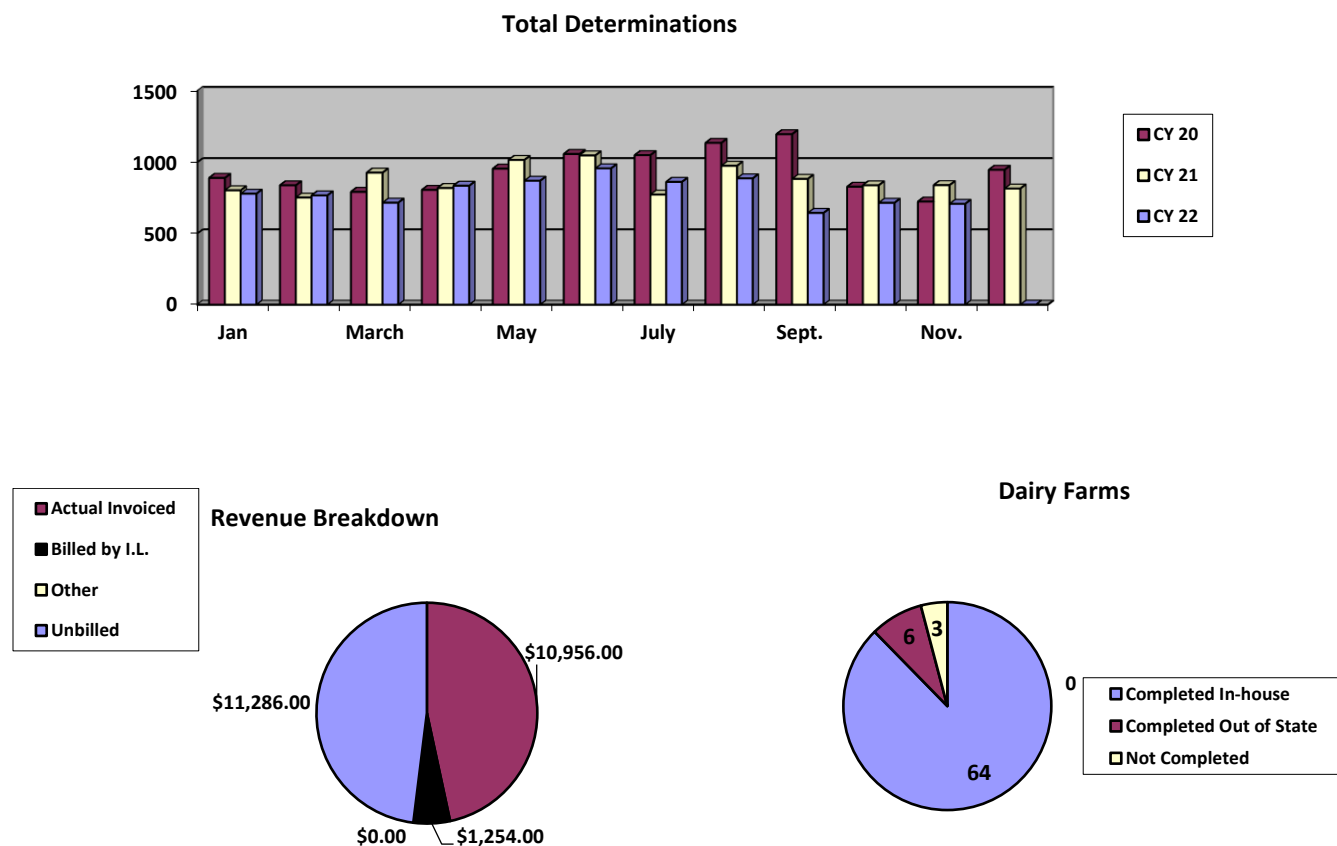
The month of November was a typical testing month for the Section. Three dairies were not tested with one of the dairies currently dry. A total of sixteen dairies have ceased operation this calendar year.

The Section participated in the FDA Food PT, which tests for bacteria counts, coliform counts as well as isolating Salmonella, Listeria and E. coli O157:H7. Due to the shortage on liquid baby formula, which is typically used, regular milk was substituted this year.



The Section tested twenty- five meat samples this month. The Section has tested 191 samples for calendar year 2022.

There has not been any additional work on the autoclave. The Section was notified that there is a six to eight week delay on shipping of the new autoclave which will be into 2023.



**SEED SECTION:** (Tori Gillispie, Agriculture Field Inspector V and Wade Krivanek, State Seed Program Administrator)

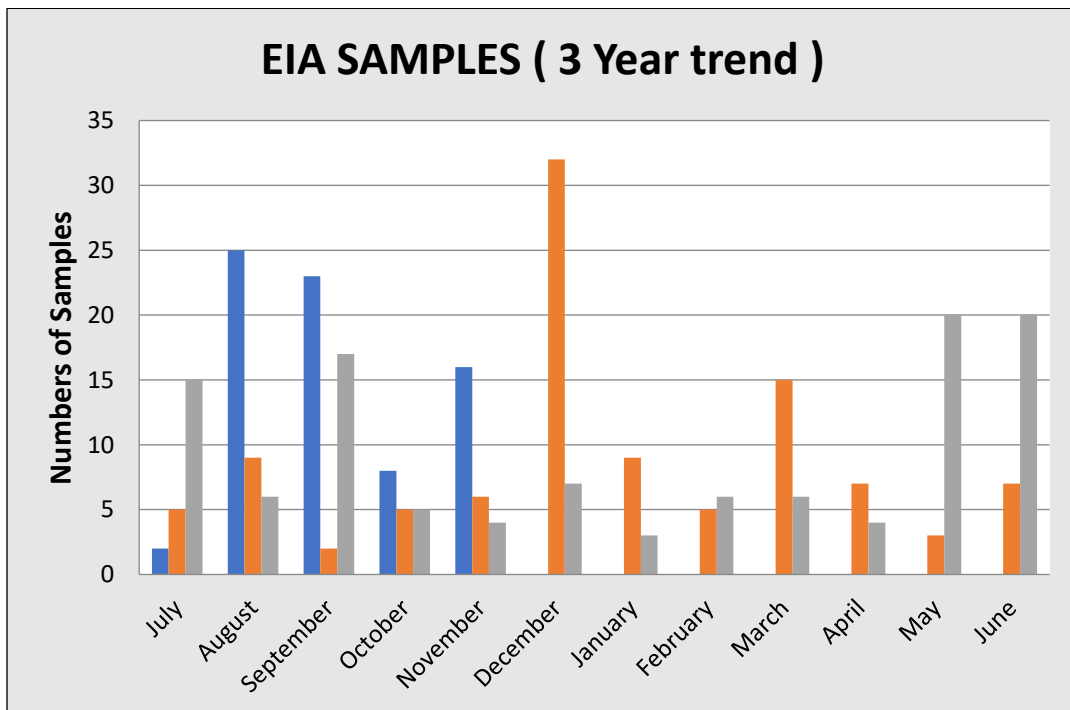
A total of 170 samples were received for November. Most of the crops tested consisted of fall season turf grasses, native grass and bermudagrass. Approximately forty-eight percent were taken from carryover seed lots that required new germination test dates for the Oklahoma Crop Improvement Association as well as random sample collections from CPS inspectors.

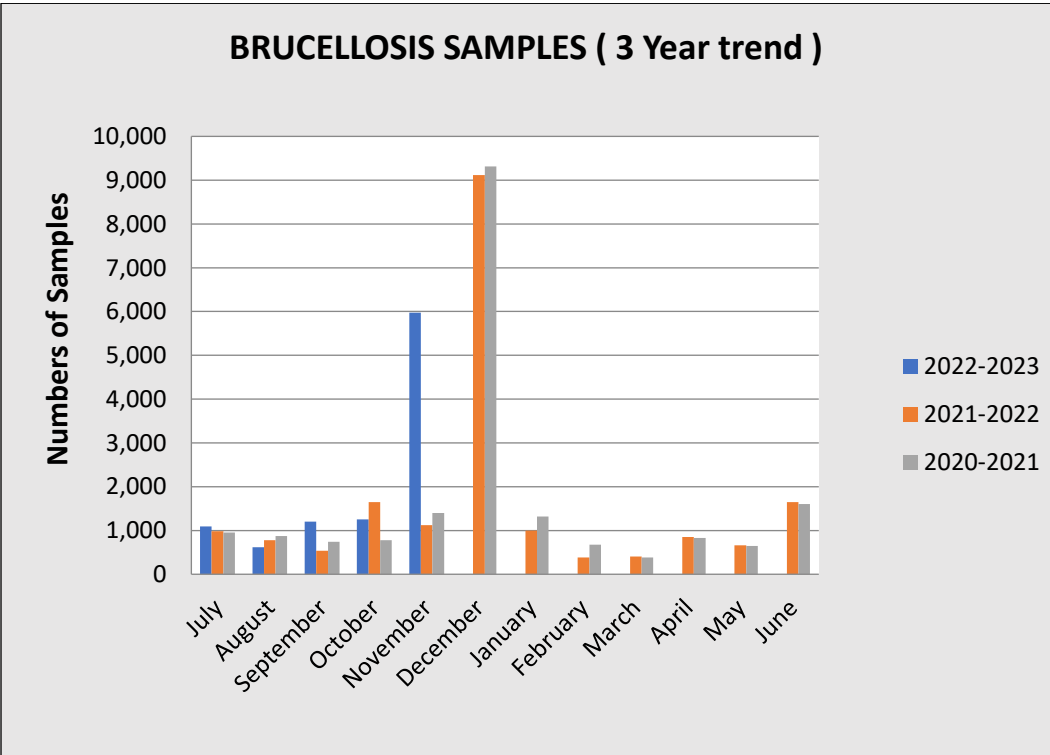
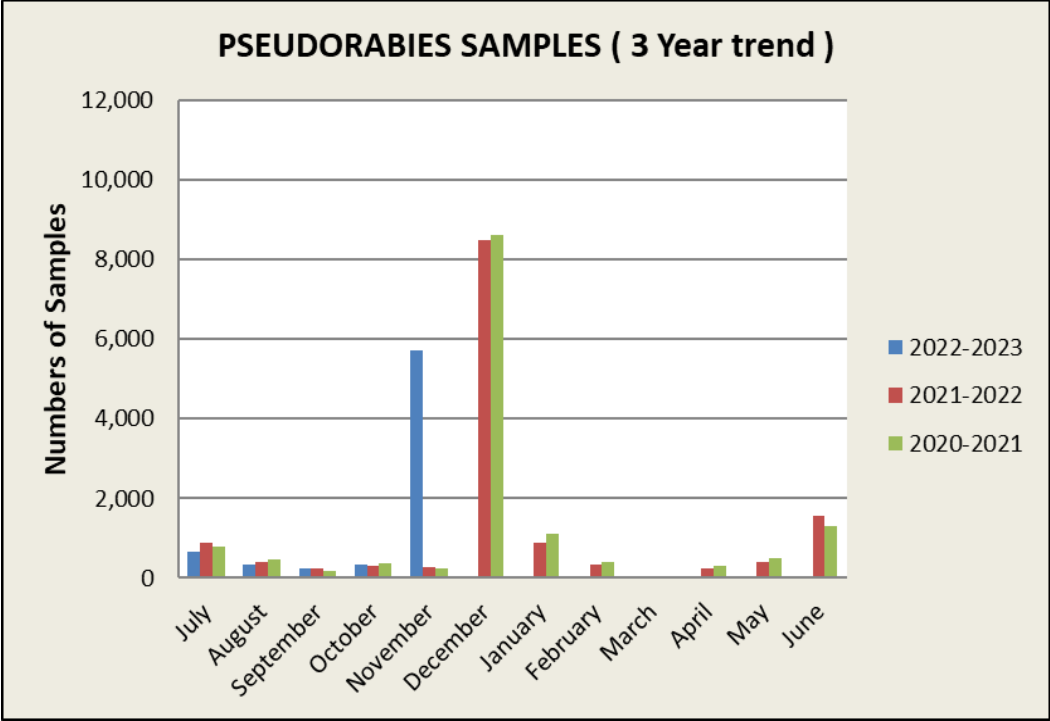
Seed quality was acceptable for official samples however there were label violations discovered on three different seed lots. A total of 29 tons of small grains consisting of certified wheat and pasture blends were placed under stop sale due to incorrect labeling requirements. All of the infractions have since been remedied and released from stop sale.

**SEROLOGY SECTION:** (Pete Bourns, Laboratory Scientist IV)

November

3-year Summary of Samples Analyzed			
Year	Brucellosis	Pseudorabies	E.I.A.
2022	5976	5707	16
2021	1118	265	6
2020	1397	233	4





**GENERAL CHEMISTRY SECTION:** (Johnathan White, Environmental/Chemical Laboratory Scientist IV)

November has been a productive month. The Section has transitioned over to primarily testing feed. The Section was able to complete testing of all official fertilizer samples on November 4<sup>th</sup> and completed a late arriving fertilizer PT sample by the middle of the second week. This has allowed us to shut down our fertilizer testing equipment and focus solely on feed.

The Section was able to complete 925 determinations, which was close to our target of 1000 determinations per month. If the Section can keep up with the incoming samples and maintain equipment we should be able to hit that target.

The Section continues to expand cross training efforts to have all testing covered by two possible analysts.

By adding two ultrasonic humidifiers to our Section, we were able to continue working on at least five days when environmental conditions would have dropped below the allowable threshold. In past years the Section has lost several weeks of work time due to low humidity, so this should further reduce our down time.

The turn-around average is 15.23 days with a date target of 18 days. We are also continuing to hit an internal target of samples having their first run within a week of receiving.

Overview of Section numbers for the month of November:

	<b>Feed</b>	<b>Fertilizer</b>	<b>Lime</b>	<b>Total</b>
<b>Samples Received</b>	197	1	0	198
<b>Samples Completed</b>	185	6	0	191
<b>Determinations</b>	905	20	0	925
<b>Violations</b>	77	3	0	80
<b>Violation %</b>	8.51%	15.00%	0.00%	8.65%

**PESTICIDE SECTION:** (Usha Pandey-Kadel, Environmental/Chemical Laboratory Scientist IV)

The new GC-FID (SCION) has been installed and training is ongoing.

**Pesticide Section samples completed:**

In the month of November, the Section completed 54 samples. Below is the table showing the number of samples, tests per sample, and determinations (Det.) per sample with turnaround times (TAT).

	Number	Test	Det.	Average TAT (days)
Residue Vegetation	28	62	353	67
Residue Soil	17	20	38	27
IFA Soil	5	5	30	21
Organic Act	2	2	2	21
Residue, Other	1	1	1	19
Hemp	1	1	1	9

Average Residue  
Turnaround Time: 47 days

Average Hemp  
Turnaround Time: 9 days

Totals		
# of Samples	# of Tests	# of Determinations
54	91	425

**Samples the Section received by month:**

The Section received 27 samples for the month. Majority of the samples received were for residue analysis (see Fig A).

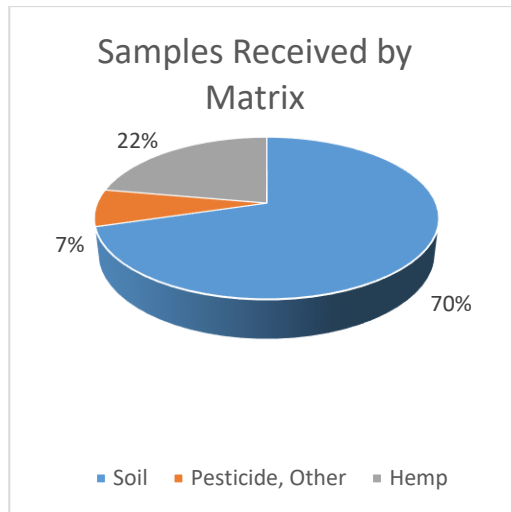
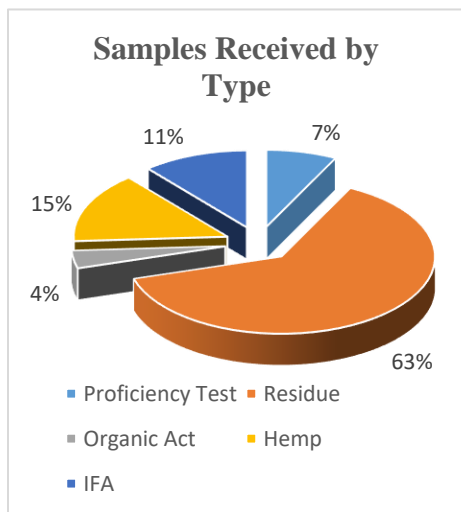


Fig A. Pie charts representing the number of samples received by type (left) and matrix (right)

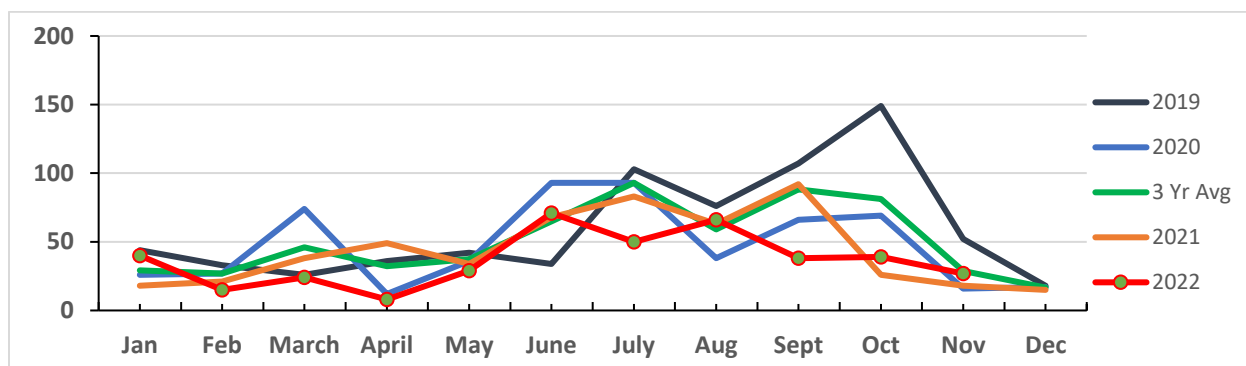


Fig B. Graph showing the number of samples received by the Section each month.

### Determinations the Section completed by month:

The Section completed 425 determinations with most of the determinations done on residue vegetation samples.

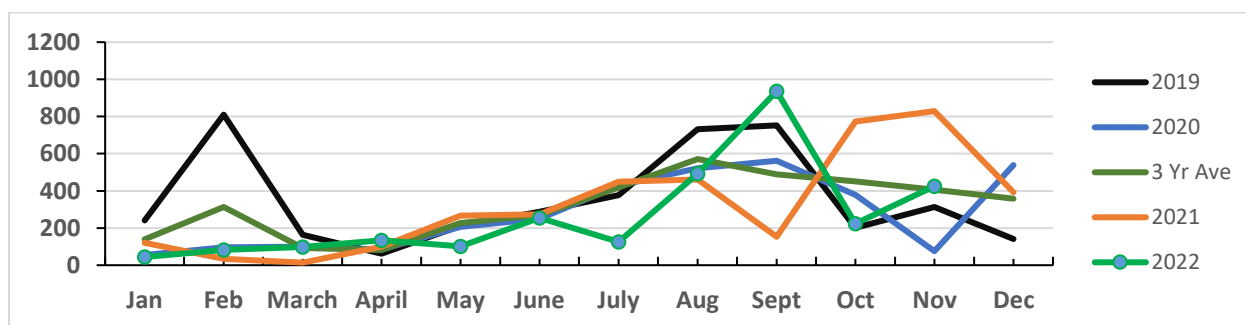


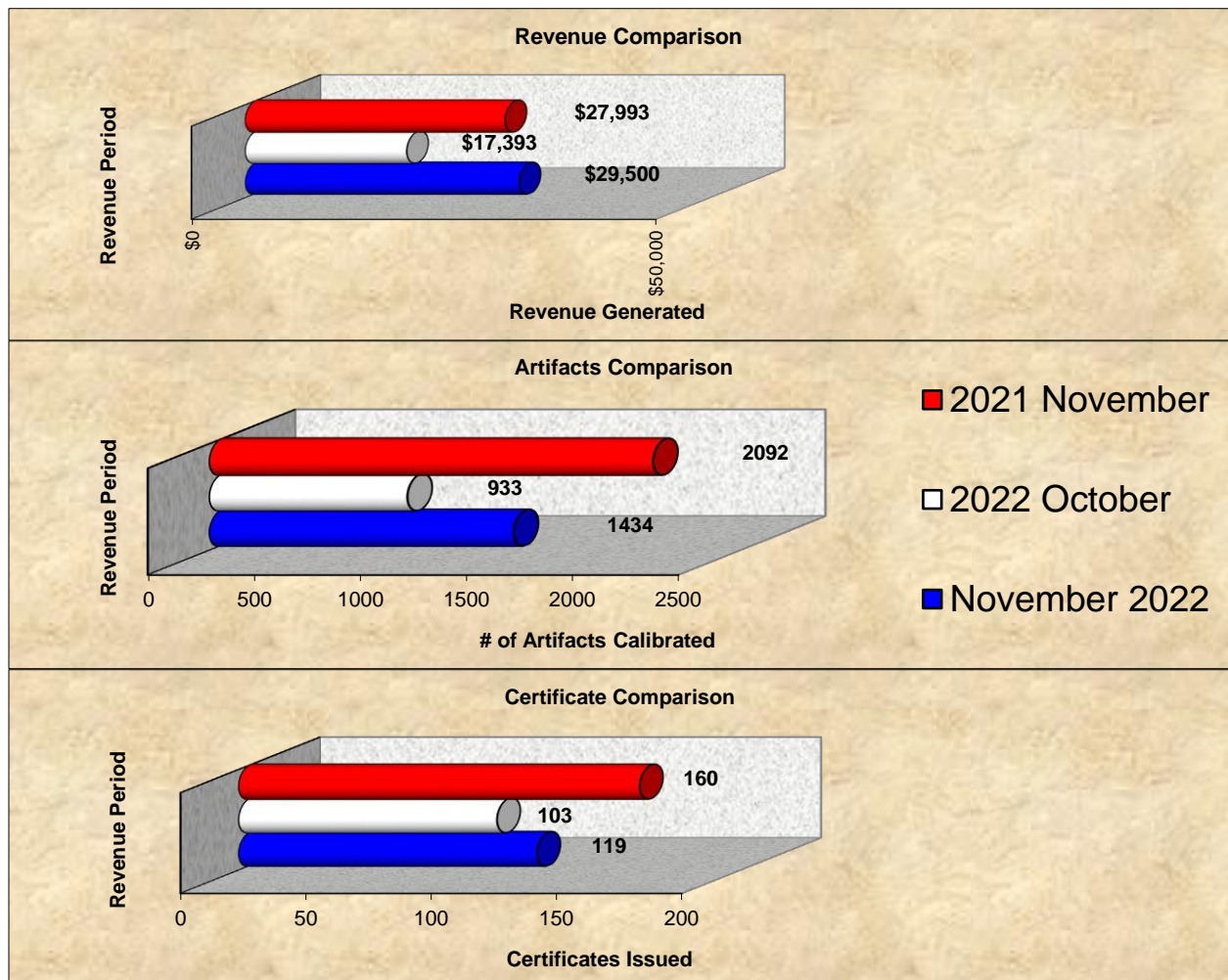
Fig C. Graph showing the number of determinations completed each month.

### **OKLAHOMA BUREAU OF STANDARDS:** (Amanda Kramer, Metrologist III)

The following is a workload summary for the Oklahoma Bureau of Standards from November 1<sup>st</sup> through 30<sup>th</sup>.

Month	#	Fees	% of Fees	# Standards	% of Standards
Out-of-State Customers	8	\$12,336	41.8%	318	22%
In-State Customers	15	\$17,164	58.2%	1,116	78%
Totals	23	\$29,500	100%	1,434	100%

Total Fees not Charged		# Working Days Lead Time to Next Available Date for Calibration	
\$0		Mass I / II	9
Fees not Charged ODAFF CPS		Mass III	9
\$0		Volume	9



Respectfully Submitted,

Wade Krivanek  
Laboratory Director  
Laboratory Services Division

**BOARD REPORT**  
**AGRICULTURAL LABORATORY SERVICES**  
**NOVEMBER 2022 ACTIVITIES**

FEED SAMPLES	197
FEED DETERMINATIONS	905
POSSIBLE VIOLATIONS	77
 FERTILIZER SAMPLES	 1
FERTILIZER DETERMINATIONS	20
POSSIBLE VIOLATIONS	3
 LIME SAMPLES	 0
LIME DETERMINATIONS	0
POSSIBLE VIOLATIONS	0
 PESTICIDE SAMPLES	 54
PESTICIDE DETERMINATIONS	425
POSSIBLE VIOLATIONS	0
 MEAT SAMPLES	 0
MEAT DETERMINATIONS	0
VIOLATIONS	0
 INORGANIC LAB SAMPLES	 175
DETERMINATIONS	1456
 STATE-FEDERAL VET. LAB. SAMPLES	 11699
STATE-FEDERAL VET. LAB. DETERMINATIONS	12469
NUMBER POSITIVES	0
 SEED SAMPLES	 170
SEED DETERMINATIONS	431
POSSIBLE VIOLATIONS	3
 BUREAU OF STANDARDS CERTIFICATES	 119
NUMBER OF STANDARDS CALIBRATED	1434
FEE CHARGES	\$29,500.00
 DAIRY SAMPLES	 335
DAIRY DETERMINATIONS	708
POSSIBLE VIOLATIONS	3
 <b>TOTAL SAMPLES</b>	 <b>12750</b>
<b>TOTAL DETERMINATIONS</b>	<b>17848</b>
<b>TOTAL POSSIBLE VIOLATIONS</b>	<b>86</b>





# OKLAHOMA FORESTRY SERVICES BOARD REPORT

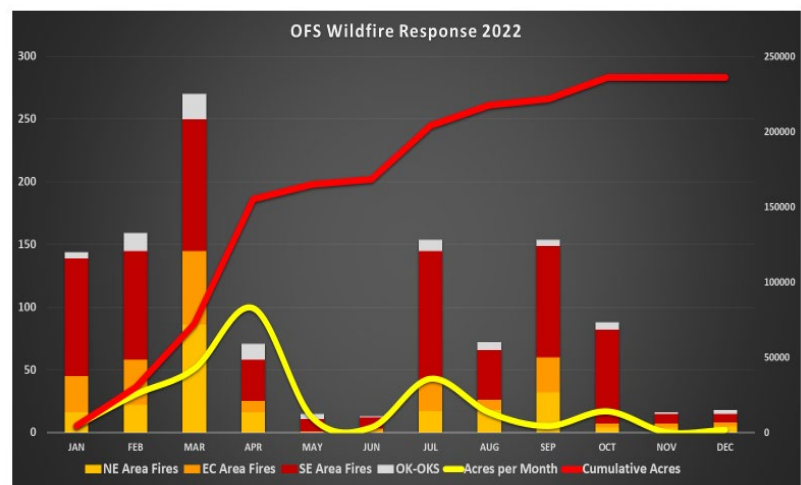
*Division Activities from November 19, 2022 – January 13, 2022*

*Serving Oklahomans by conserving, enhancing, and protecting our forest and natural resources for present and future generations. Our Board Report is formatted to reflect the priorities of the National Cohesive Wildland Fire Management Strategy, which include Resilient Landscapes, Fire Adapted Communities, and Wildfire Response.*

## WILDFIRE RESPONSE

### **Wildfire Activity & Outlook Executive Summary:**

Fire activity tailed off late in 2022 with overall calm weather patterns dominating. A cold air intrusion around the Christmas holiday pushed the cool-season species into dormancy increasing fuel availability. Over 95% of Oklahoma remains highlighted on the Drought Monitor with extreme drought indices spanning northern Oklahoma, most of central Oklahoma and a pocket in southwestern Oklahoma. The carryover of drought stress and increasing separation from wetting rainfall during the driest period of the year has supported development of an adverse fire environment. Oklahoma Forestry Services working alongside our partners with the National Weather Service and Oklahoma Mesonet are actively monitoring for fire-effective weather patterns on the horizon.



### **Wildfire Outlook**

Fuels assessment points to below-average fuel loading in general due to a drought-dominated growing season. This lessens the potential for frequent significant wildfires (fires >5,000 acres and/or with notable structure loss) noting that fire occurrence is expected to be somewhat above normal given the current trends, state of fuels and seasonality. Near-term weather outlooks, dominated by the continuation of La Niña conditions that are projected to transition toward ENSO-neutral moving through winter into spring. Nonetheless, above normal temperatures are favored through January and climatology suggests dry conditions persisting. Assessment of the fire environment points to the expectation of above-normal wildfire occurrence during the dormant season and severity will be dependent upon the following triggers:

- $\geq 5$  days since wetting rain.
- Critical fine-dead fuel moisture (3% West/5% East).
- Period of accelerated drying.
- Frequency of fire-effective weather patterns.
- $\geq 15^\circ$  positive temperature anomaly.
- Energy Release component >75<sup>th</sup> percentile.

## **Wildfire Response (cont'd)**

CY 2022 proved to be an active year for wildfire response. Oklahoma Forestry Services responded to 1,292 wildfire incidents that burned 244,382 acres. On those fires 1,004 residences were directly saved with 34 lost, and 552 outbuildings were protected with 68 lost.

- March had the highest fire occurrence with OFS acting on 295 fires.
- April saw 82,826.6 acres burned for the highest monthly total of 2022.
- A notable summer fire season developed while drought intensified into the fall.
- In CY 2022, 37 Prescribed Fires were successfully conducted treating 9,370.6 acres, achieving both resource management and hazard fuels mitigation objectives.

A relatively quiet time during November and December afforded opportunities to repair and maintain equipment in preparation for the dormant wildfire season. The lack of wildfire threat also allowed employees to reduce comp time balances ahead of the expectation for above normal fire occurrence through the early spring months. Area supervisors are working diligently to fill vacancies to maintain personnel capacity due to retirements and resignations for employers offering higher salaries for positions with less personal risk.

With reference to ongoing equipment repair, it is projected that the OFS repair budget allocation for this fiscal year will be exhausted prior to the peak of the dormant fire season. As testament to that projection, only 61% of the OFS firefighting equipment was available for service on October 23, 2022. This was due to breakdowns and repair requirements that rendered a mix of dozers, transports, and wildland fire engines out of service. The current downturn in fire activity is providing some time for repair noting that supply-chain issues are problematic.

## **RESILIENT LANDSCAPES**

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### **URBAN & COMMUNITY FORESTRY PROGRAM HIGHLIGHTS**

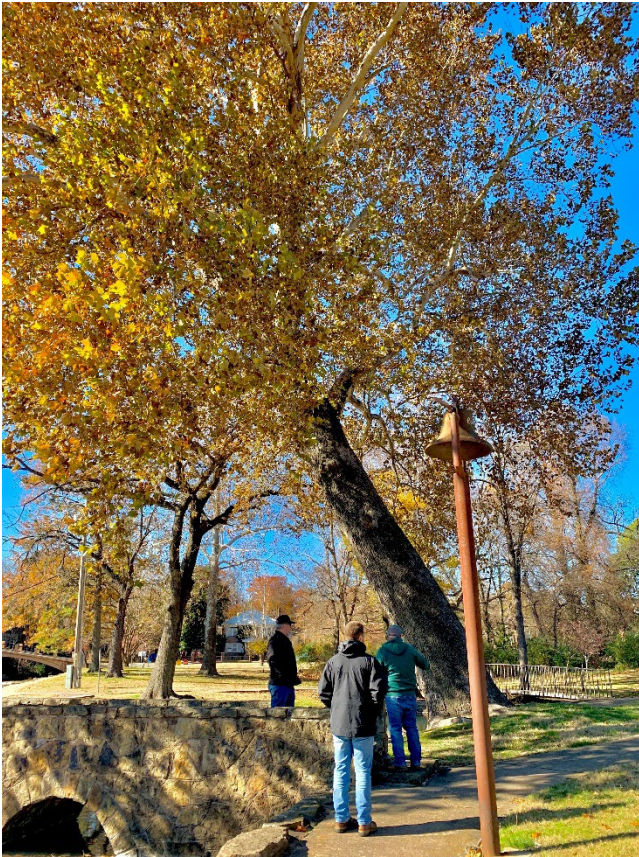
On November 15<sup>th</sup>, Community Forester Mark Bays and Partnership District Forester Riley Coy represented OFS at the Annual National Urban and Community Forestry Coordinators meeting held in Seattle. Following that meeting on November 16<sup>th</sup> – 17<sup>th</sup>, Mark and Riley attended the Partners in Community Forestry Conference. The theme for the conference was “Now is the Time for Trees.” Speakers included nationally and globally renowned experts in the field of arboriculture and urban & community forestry.

On November 25<sup>th</sup> Education Coordinator Tony Pascall and Community Forester Riley Coy set up an educational booth at the World’s Tallest Christmas Tree Lighting Ceremony in Enid, Oklahoma. There were approximately 30,000 people in attendance allowing Riley and Tony to speak with approximately 3,000 people throughout the evening. In addition, they distributed 800 loblolly pine seedlings to event participants. The topic for discussion was “the importance of trees in Western Oklahoma”.





Washington Elm Tree Preservation – In late November, Mark Bays and Riley Coy met with representatives of Manhattan Construction, Capital Improvement and OMES to discuss security threat improvements that included the placement pylons under the canopy of the George Washington Elm on the SW grounds of the Capitol. The existing design was to drill 36-inch holes on 8 ft. spacing under the critical root zone of the tree. It was determined this would be a serious risk to the health of the tree and the project was redesigned to place large boulders on the surface instead of drilling and causing root damage. Work was completed in late December.



On November 30<sup>th</sup>, Education Coordinator Tony Pascall, Community Forester Riley Coy, Service Forester

Evan Long and Communications Director Keith Merckx Visited with the head of Grounds Keeping at Northeastern State University in Tahlequah, OK. The goal was to assess trees on campus to determine whether they should be removed or maintained. A partnership was formed between OFS and the University which will impact the health of the campus canopy into the future.

Oklahoma Urban & Community Forestry Council. The U&CF Council met for their quarterly meeting December 8<sup>th</sup> at Arcadia Lake in Edmond. The new officer elections, end-of-year financials, annual conference financials and the upcoming 2023 Arbor Week were some of the main topics of discussion. Riley Coy and Mark Bays represented OFS at the meeting.



On January 6<sup>th</sup>, 2023, Community Foresters Mark Bays and Riley Coy met with a landowner in Midwest City and OG&E foresters with their contracted arborist crew to discuss miscommunications between the L/O and crew. Trees near power lines had been pruned differently than expected according to the L/O. Ultimately concessions were made to facilitate the understanding and satisfaction of all parties.





## Upcoming Events

The Midwestern Chapter of International Society of Arboriculture Annual Conference will be January 25<sup>th</sup>-27<sup>th</sup> in Tulsa. Riley will be participating in a lightening round discussion and talk about additional opportunities for the utilization of urban wood program.

Riley and Mark Bays will be traveling to Baton Rouge, LA January 30<sup>th</sup> - February 2<sup>nd</sup> to attend the winter meeting of the SGSF U&CF Committee.

## COMMUNITY OUTREACH AND COMMUNICATIONS

### **FORESTRY EDUCATION**

On November 17<sup>th</sup> Education Coordinator Tony Pascall lead a Tree Badge program for a group of ten Girl Scouts at the Forest Regeneration Center in Goldsby. These scouts learned about how the nursery works, and why we grow trees for conservation projects.



On November 19<sup>th</sup>, Tony trained five Pre-K teachers and non-formal educators on Project Learning Tree's "Trees & Me" curriculum at the OSU extension office in Tulsa. These educators will now have the resources to teach about the forest with their own classes.



On November 30<sup>th</sup>, Tony introduced Project Learning Tree to 15 pre-service educators at NSU. These teachers are going to college to be teachers and were introduced to Project Learning Tree and the opportunities that the program presents.

From January 3<sup>rd</sup>- 6<sup>th</sup> Tony joined with Education Coordinators from other states in the Southern Group of State Foresters to build Forest Literacy lesson plans for Oklahoma and the southern region. The training and resources developed will help provide OFS staff with the confidence and skills needed to inspire true behavior change toward improved health and sustainability of the natural resources they manage.



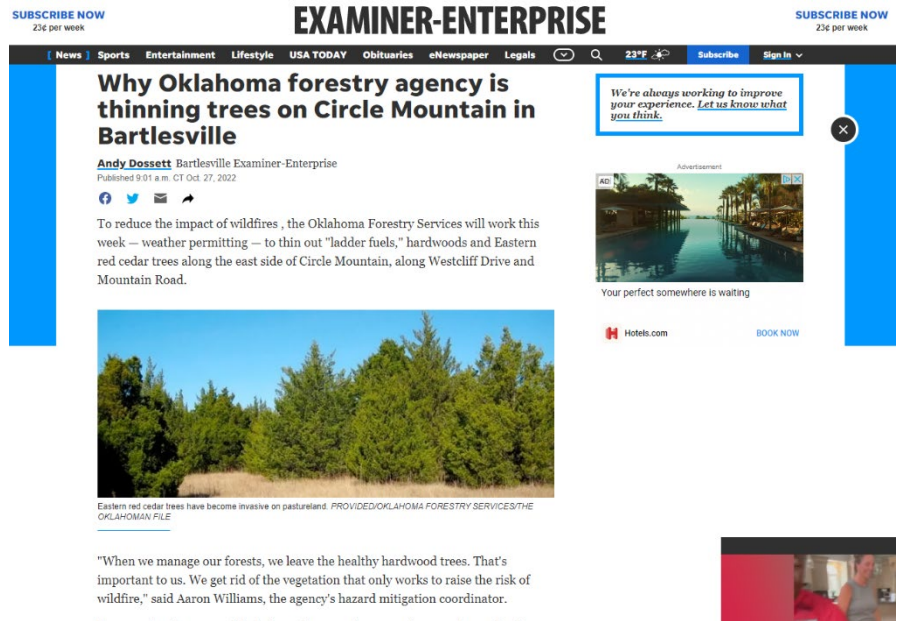


## COMMUNICATIONS

Social media engagement was up after daily posts through the Christmas season that included facts about naturally grown Christmas trees. During the month, Facebook reach was 80,255. That is an increase of 79.6% over the prior month. There were more than 3,000 visits to the OFS Facebook page for an increase of 21.3% over the prior month. The OFS page will soon surpass the 59,000-follower mark.

Communications continues to work to publicize fuels mitigation work in northeast Oklahoma. Projects around Bartlesville are now complete – OFS and its partners met with success in publicizing work to clear vegetation before it occurred to achieve community buy-in. Media partners from Tulsa and Bartlesville participated in the effort. The spotlight will next turn to work at the Turkey Mountain Urban Wilderness Area in Tulsa.

Efforts are underway to make more frequently visited portions of the OFS webpage more easily accessible to visitors. These include Situation Reports, Maps, etc.



Information Representative Keith Merckx will attend the Southern Group of State Foresters Water Quality meeting in South Carolina at the end of January. He serves as the Communications Committee Liaison to WQ.

## PROGRAM HIGHLIGHTS FROM THE EASTERN AREA OFFICES

### NORTHEAST AREA

#### Forest Protection Highlights:

From November 11<sup>th</sup> through January 6<sup>th</sup> the Northeast Area had 8 fires for 487 acres in the Protection Area.

Connie Robinson, Craig Longshore, Doug Duncan, Tim Reno, and Dakota Green conducted Colcord Unit Forest Ranger I interviews on 11/30/2022. New Colcord Unit Forest Ranger I Travis Garrison started work on January 4<sup>th</sup>.

The OFS Red Card Committee meeting held at NE Area Office in Tahlequah on December 13, 2022.

#### Forest Management/Program Highlights

Connie Robinson conducted eight site visits to assist landowners in the NE Area, as well as assist three landowners over the phone. She wrote four Stewardship plans covering 360 acres, focusing on management objectives such as forest health, wildlife habitat, and silvopasture. She also completed two management plans for properties in Osage and Rogers counties that addressed management issues on 299.5 acres. Evan Long assisted eight landowners regarding issues such as tree health, disease, ID, management concerns, and stewardship plans. Evan assisted Northeastern State University on identifying trees on campus for removal.

**Prescribed Burning:**

Control line construction started in December on one Stevens Grant Prescribed Fire project.

**Ongoing Issues & Upcoming Events:**

- NE Area Work Capacity test and Annual Fireline Refresher is scheduled for January 26<sup>th</sup>
- Interviews for vacant Forest Ranger positions in the Bunch and Park Hill units are tentatively scheduled

***SOUTHEAST AREA*****Forest Protection Highlights:**

- In Protection: 8 fires in November for 91 acres; 7 fires in December for 56 acres.
- SE Area completed CY 2022 with a total of 664 fires for 32,965.6 acres burned.

**Forest Management/Programs Highlights:**

- Will Phifer conducted 20 landowner assists/contacts in October, November, and December 2022.
- Aerial spraying on 137 acres for tree planting site preparation is in progress.
- JT Allen conducted twelve landowner contacts.
- Tyler Hyatt conducted four landowner contacts
- Tama Lester, Johnny Baze, James Hamilton, Phil Delozier, Sonny Johnson, and Bryden Walker assisted at the Forest Heritage Center Fall Folk Festival in November.
- C. Hutson, T. Wilson, J. Baze, J. Burgett, C. Mack – Fire Prevention Program at Rattan
- C. Hutson, T. Wilson, J. Baze, B. Hill, C. Mack - Fire Prevention Program at Antlers
- T. Macon, C. Mack - Fire Prevention Program at Clayton.

**Rx Assistance:**

- Completed CY 2022 with a total of sixteen Prescribed Fires, treating a total of 6,852 acres.

**Safety/Training Highlights:**

- The Broken Bow District completed Confronting Bias training
- Seven Broken Bow District employees completed Sexual Harassment training.
- All Antlers District employees have completed both of the above trainings.
- Leon Macon, SE Area Dispatcher, has completed CPR, Defensive Driving and ROHVA training.
- Jared Burgett completed CPR training; Josh Bates completed ROHVA training; Terron Gee, Mark Webb and Tyler Hyatt completed Defensive Driving training.
- Antler's district completed safety training "Fire Communication Responsibilities"

**Employee Recognition/Other:**

- Johnny Baze, A341, retired on November 30<sup>th</sup> with 35 years of service as a Forest Ranger.



- Phil Delozier, A222, retired on December 31<sup>st</sup> with 35 years and 6 months as a Forest Ranger.



- JT Allen attended the Stephen F. Austin career fair to recruit forestry students.

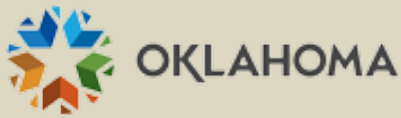
#### **Upcoming events/activities:**

- Completing site prep for the spring planting season
- Spring planting season
- Multiple Stevens program prescribed burns are scheduled
- Hochatown Mapping Updates
- Work Capacity Test - February 7, 2023
- RT-130 Fireline Annual Safety Refresher course
- S-130, S-190 for Leon Macon
- S-200 Initial Attack Incident Commander course
- Refresh fire control lines at McGee Creek NSRA in preparation for Hunter's Cabin Unit 2,300 acre prescribed fire.
- JT Allen will be speaking at a Green Jobs even January 12th in Durant, OK

#### **STATE FORESTER ACTIVITIES from 19 November 2022 thru 13 January 2023**

- Attended First Tuesday Meetings with OFS Staff
- Attended scheduled Director's Meetings
- Attended a virtual meetings with Conservation Fund leadership to discuss the land purchase procedures and application process through the USFS Forest Legacy program for the first State Forest
- Attended S-520 Advanced Incident Management course in Tucson, AZ (Goeller serves as a Subject Matter Expert/Cadre/Steering Committee member)
- Job shadowed by Ag Youth Council Member Mason Harris
- Met with Oklahoma State Firefighter's Association leadership to discuss Rural Fire issues (2<sup>nd</sup> meeting)
- Participated on the National Association of State Foresters' All State Foresters Monthly Policy Call
- Virtually attended the Northern Rockies Incident Management Team #1's Command and General Staff organizational call
- Attended Administrative Rules Hearing to update the Rural Fire Protection Fund Program Act Rules
- Attended the National Association of State Foresters' Wildland Fire Committee/Chiefs, Managers, Supervisors Meeting in Albuquerque, NM





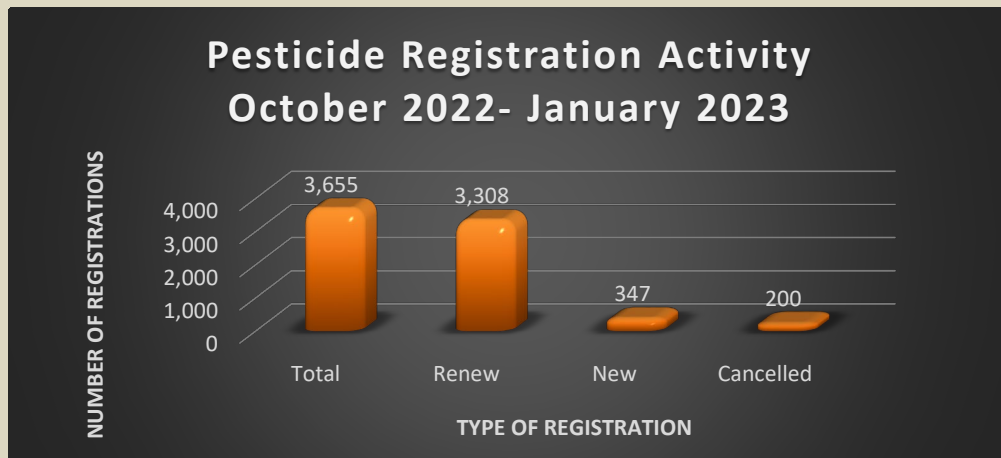
## *CONSUMER PROTECTION SERVICES DIVISION*

### **JANUARY 26, 2023 BOARD MEETING REPORT FOR NOVEMBER/DECEMBER/JANUARY 2023**

#### **Pesticide Program**

##### Pesticide Registration Activity

Pesticide registrations for October 1, 2022 to January 10, 2023 are presented in the following chart. A total of 3655 pesticide products registered, of the products registered 3308 were renewals and 347 were new. There were 200 products cancelled.



##### Pesticide Samples

Pesticide samples taken November-December are presented in the following chart. A total of 29 Residue, 8 Concentrate, 2 Pollution, and 1 Tank mix samples were taken.

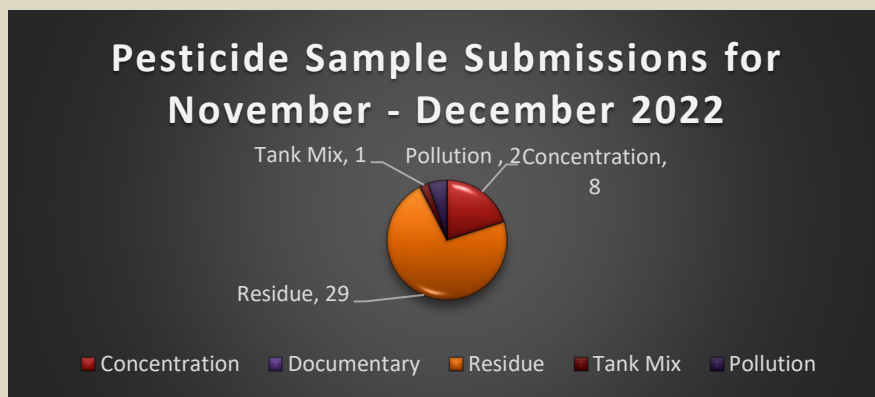


Table 1. Inspection Count for November - December 2022\*

Inspection Type	Number of Inspections		
	November	December	Two Month Total
Experimental Use Permit	0	0	0
Marketplace	65	44	109
Pesticide Applicator Facility	25	32	57
Pesticide Service Inspection	0	0	0
Restricted Use Pesticide Dealer	19	19	38
Container Containment Inspection	0	0	0
Producer Establishment	0	0	0
Use	56	82	138
Termite	0	0	0
Wood	0	0	0
Pre-treat	4	2	6
Drift Investigation	0	0	0
Pesticide Label	5342	3217	8559
Worker Protection	0	3	3
<b>Total</b>	<b>5511</b>	<b>3399</b>	<b>8910</b>

\* Inspections not yet submitted at the time of this report will be reflected in the next board report

Along with the above inspections CPS inspectors also took 30 non-agriculture use samples, 6 agricultural use samples and 4 marketplace samples for a total of 40 samples.

### Licensing & Certification

Pesticide applicator license companies have renewed 1765 licenses and the ones who do not renew will receive Stop Work Orders at the beginning of February.

Service technician certification expired on December 31, 2022 so far 1,835 Service Techs have passed the exam.

Certified Applicator (CA) categories that expired in 2022 are 1B – Ag Animal, 2 – Forest, and 8 – Public Health. In category 1B, 6 CA’s have renewed by test and 5 by obtaining the required number of CEU’s. In category 2, 4 CA’s have renewed by test and 23 by obtaining the required number of CEU’s. In category 8, 14 CA’s have renewed by test and 17 by obtaining the required number of CEU’s.

### PSI Updates

PSI has launched a new website specifically for the pesticide exams for ODAFF. The original website, [www.psiexams.com](http://www.psiexams.com), will relocate candidates to the new website or they can go to the new website at <https://test-takers.psiexams.com/okpest>

### Pesticide Complaints

PESTICIDE COMPLAINTS		November 16, 2022 – January 9, 2022		
	RECEIVED	CLOSED	WARNINGS ISSUED	NO ACTION
CONSUMER GENERATED:	5	6	3	6
MUSK THISTLE:	4			
PMR CASES:	8	6	5	6
CASES REFERRED TO OGC:	8			

### **Plant Protection Program**

#### Phytosanitary Certificates

##### *Federal*

Federal phytosanitary certificates Issued from **November 1, 2022 – December 31, 2022**

Commercial value of shipment \$1,250 or more:

28 Federal phytosanitary certificates issued @ \$106.00 each

Commercial value of shipment less than \$1,250:

6 Federal phytosanitary Certificates issued @ \$61.00 each

<b>Federal Phytosanitary Certificates (November 1, 2022 - December 31, 2022)</b>			
<b>Country</b>	<b>Product</b>	<b>Quantity</b>	<b>Phytos Issued</b>
Cambodia	Oak Logs	19 Logs (4094 Board Ft)	1
Canada	Barrelclover Seed	2 Grams	1
Chile	Iris Rhizomes	266 Rhizomes	1
China	Barrelclover Seed	25 Grams	2
France	Barrelclover Seed	2 Grams	1
Germany	Walnut Logs	98 Logs (4800 Board Ft)	1
Indonesia	Miscanthus Seed	40 Totes (40,000 Kg)	2
Japan	Walnut Logs	50 Logs (4800 Board Ft)	1
Mexico	Sesame Seed	774,018 Lbs	18
The Netherlands	Barrelclover Seed	2 Grams	1
Republic of Korea	Sorghum Seed	3000 bags (20 Kgs each)	2
Spain	Barrelclover Seed	50 Grams	1
Thailand	Miscanthus Seed	80 Totes (80,000 Kg)	2

Companies applying for federal phytosanitary certificates:

Baillie Lumber	2
International Ingredient:	4
Johnston Seed Company:	2
OSU Biosciences:	6
Sesaco	18
TMX Shipping:	1

### *State*

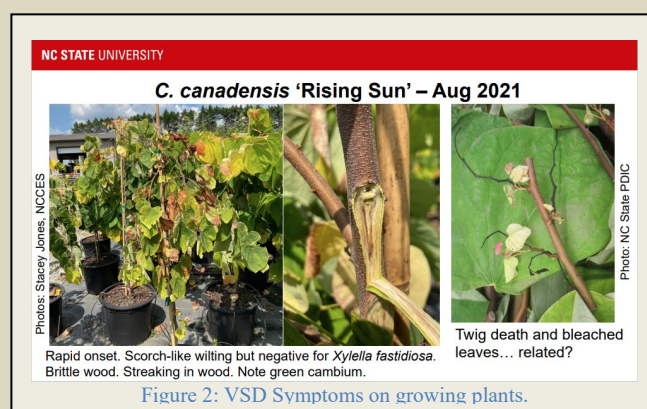
State phytosanitary certificates Issued from **November 1, 2022 – December 31, 2022**  
36 phytosanitary certificates for 2,228 plants



## Vascular Streak Dieback

A couple of nurseries have tested positive for Vascular Streak Dieback (VSD) on Redbud. VSD has is a recently discovered problem in Redbud but the most likely cause is believed to be *Ceratobasidium theobromae*. This pathogen causes streaking in the vascular tissue, wilting, and eventual plant death. VSD has a wide host range which includes Redbud, Maple, Dogwood, and many other plants.

Because of the impact this disease could have in Oklahoma, we plan to do additional sampling for this disease at nurseries that grow Redbud trees. Over the next 2 to 3 weeks, CPS inspectors s are going to take samples at each nursery that was positive. After sampling the positive nurseries we will sample the remaining nurseries in the area, with a plan to finish the initial sampling before March 1.



## **Hemp Program**

License renewal for 2023 have begun for hemp. Caroline Nelson, Hemp Program Administrator has received many calls about how to obtain a license and several applications have been submitted and approved for 2023. Additionally, several letters of warning have been sent to 2022 licensees who did not complete their reporting for 2022.

## **Apiary Program**

Caroline Nelson, Apiary Program Administrator and Joe Rackley, CAPS coordinator, will be making presentations to educators from around the state at Oklahoma Environmental Education Expo in February at the Oklahoma City Zoo.



## Feed Program

During this reporting period there were a total of 225 official feed samples analyzed, with 1214 feed determinations made from these samples. These determinations resulted in the issuance of 58 violations for feeds or feed ingredients that did not meet established tolerances based on their guaranteed analysis. Most of these violations were issued for products deficient in Crude Protein. Other violation includes Crude Fat, Crude Fiber, Vitamin A, Phosphorus, Potassium, Calcium, Salt, Copper, and Zinc. Twenty stop sale orders were issued for feed products with severe deviations from their guaranteed analysis. Seven stop sales were issued for products deficient in Vitamin A. Three stop sales were issued for products excessive in Crude Fiber. Three stop sales were issued for products deficient in Calcium. Two stop sales were issued for products deficient in Crude Fat. Two stop sales were issued for products deficient in Crude Protein. Two stop sales were issued for products deficient in Copper. One stop sale was issued for a product deficient in Phosphorus.

The following tables show a two-month comparison of label violations and stop sale orders issued by the Department for feed products that did not meet their guaranteed analysis.

**Table 1. Feed Notice of Label Violation Summary December 2022- November 2022**

Nutritional Guarantee	Number of Label Violations		
	December <sup>1</sup>	November <sup>2</sup>	Two Month Total
Crude Protein	17	8	25
Non-protein Nitrogen	0	0	0
Crude Fat	11	8	19
Crude Fiber	1	2	3
Calcium	6	3	9
Phosphorus	3	2	5
Salt	4	1	5
Magnesium	0	0	0
Potassium	1	2	3
Copper	3	2	5
Iron	0	1	1
Zinc	4	3	7
Vitamin A	8	4	12
Medicated Feed	0	0	0
<b>Total</b>	<b>58</b>	<b>36</b>	<b>94</b>

<sup>1</sup> 225 feed samples analyzed with 1214 determinations; <sup>2</sup> 181 feed samples analyzed with 818 determinations

**Table 2. Feed Stop Sale Summary December 2022- November 2022**

Nutritional Guarantee	Number of Stop Sales		
	December <sup>1</sup>	November <sup>2</sup>	Two Month Total
Crude Protein	2	1	3
Non-protein Nitrogen	0	0	0
Crude Fat	2	6	8
Crude Fiber	3	0	3
Calcium	3	3	6
Phosphorus	1	0	1
Salt	0	3	3
Manganese	0	0	0
Potassium	0	0	0
Copper	2	2	4
Zinc	0	1	1
Vitamin A	7	7	14
Medicated Feed	0	0	0
<b>Total</b>	<b>20</b>	<b>23</b>	<b>43</b>

<sup>1</sup> 225 feed samples analyzed with 1214 determinations; <sup>2</sup> 181 feed samples analyzed with 818 determinations



## Weights and Measures Program

During this period the large capacity scale technicians tested 105 Vehicle scales and 12 scales were rejected.

CPS inspectors checked a total of 1066 small scales and 26 platform scales, 57 of the scales were rejected. There were 70 random pack inspections and 101 standard pack inspections conducted that resulted in 13 companies receiving letters of warning and 2 company's receiving a Stop Sale. Additionally, 277 price verification inspections were conducted at various retailers that resulted in 29 companies receiving letters of warning.

A total of 4 scale companies received a letter of warning for not properly servicing scales and 7 businesses received a letter of warning for possessing a not approved scale.

The 2023 ODAFF Ranch Scale testing program plans to begin around the first of March. The fee for a ranch scale test is \$200. Call the Weights & Measures office at 405/522-5968 or email Gary Smith at [gary.smith@ag.ok.gov](mailto:gary.smith@ag.ok.gov) to request a scale test.

## Fertilizer Program

Below you will find the performance numbers for the fertilizer, agricultural lime, and soil amendment programs for the time-period of November 15<sup>th</sup>, 2022 to January 5<sup>th</sup>, 2023. Fertilizer and ag lime samples were suspended for December and January to sample feed solely during its high use period allowing us to be more efficient with our time and resources.

Type of Investigation	Number
Dry Bulk Fertilizer Facility	16
Liquid Bulk Fertilizer Facility	6
Fertilizer Samples Taken (Not Processed)	2

As of January 5<sup>th</sup>, there are 1700 fertilizer licenses and 72 ag lime vendor licenses that have been renewed for 2023. Additionally, there has also been 231 soil amendment registrants that have renewed a total of 934 soil amendment products for 2023.



I will be glad to answer any questions from the Board members.

A handwritten signature in blue ink, reading "Kenny M. Naylor".

Kenny M. Naylor



**OKLAHOMA**  
**Agriculture, Food**  
**and Forestry**



Oklahoma Department of Agriculture, Food and Forestry  
Animal Industry Services Board Report  
January 26, 2023  
Activities November 12, 2022 – December 31, 2022

**Animal Disease Traceability:**

During this time, we have distributed a RFID wand to OKC West Livestock Market. The market is updating their market recording software and will be integrating the wand into this system.

We continue to distribute the free RFID tags to interested veterinarians and producers. During this time, we shipped 11,600 tags to veterinarians and producers. We also received 36 RFID wands that were purchased using supplemental cooperative agreement funding. We will be developing a system to allow veterinarians to apply to receive a wand and we're hopeful we'll be able to begin distributing them this spring.

**Aquaculture:**

2023 License renewal letters have been sent. We have 3 licensed operators that we have been unsuccessful in contacting to initiate the required inspection. These operators will receive a letter advising that will not be able to renew their licenses until an inspection has been conducted per the rules.

Marissa had two inquiries from potential new licensees.

**Biologics:**

During this time frame, we registered five new biological products. We also received notice of a recall of Elanco Rabvac that occurred over the summer. Veterinarians that received the recalled vaccine were notified and advised to return the vaccine. We shared this information with Dr. LeMac Morris, State Public Health Veterinarian, for their use when conducting dog bite/rabies investigations.

**Cattle Programs:**

**Brucellosis:**

The only remaining reservoir of *B abortus* in the U.S. is in elk and bison in the Greater Yellowstone Park area. Those states have Designated Surveillance Areas, where the disease in wildlife occasionally spills over into domestic cattle and bison.

While there is very little need to test for *B abortus* any longer, this means we have very little or no surveillance for *Brucella suis* (Swine Brucellosis) which currently infects approximately 20% of the feral swine that our Wildlife Services personnel test. *B suis* can, and does, infect cattle.

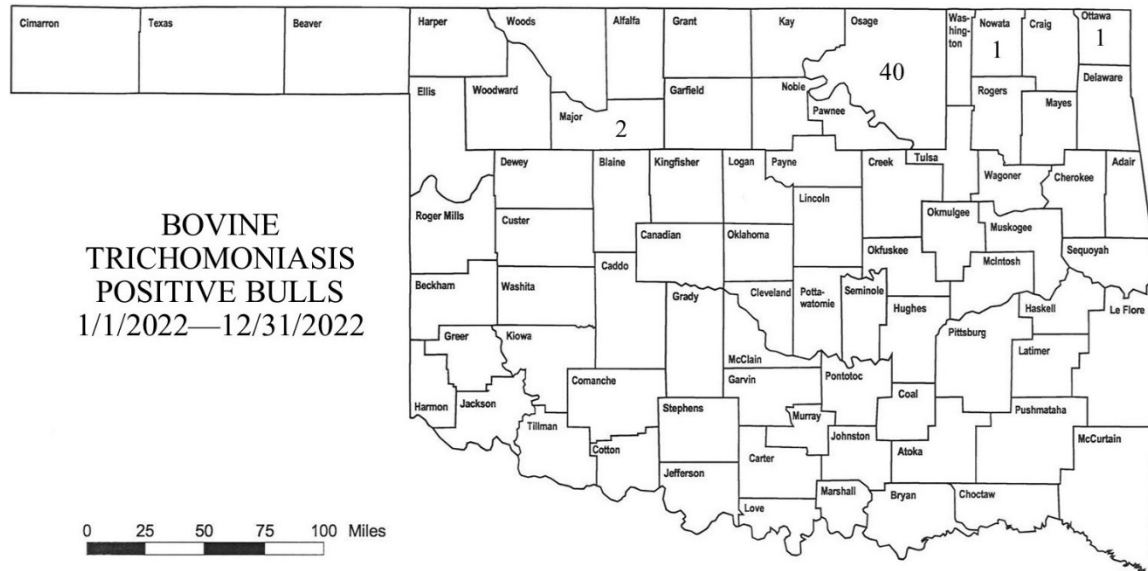
Marissa McLaughlin has done a great job getting our Brucellosis Certified Herd Program up to date. Express Ranches completed their testing to continue their Certified Herd status. Re-certification letters were sent to the other three program participants.

**Tuberculosis:**

We currently have no TB affected herds in Oklahoma.

### **Trichomoniasis:**

During this period there were 1,284 Oklahoma bulls tested for Trichomoniasis with no positive individuals found.



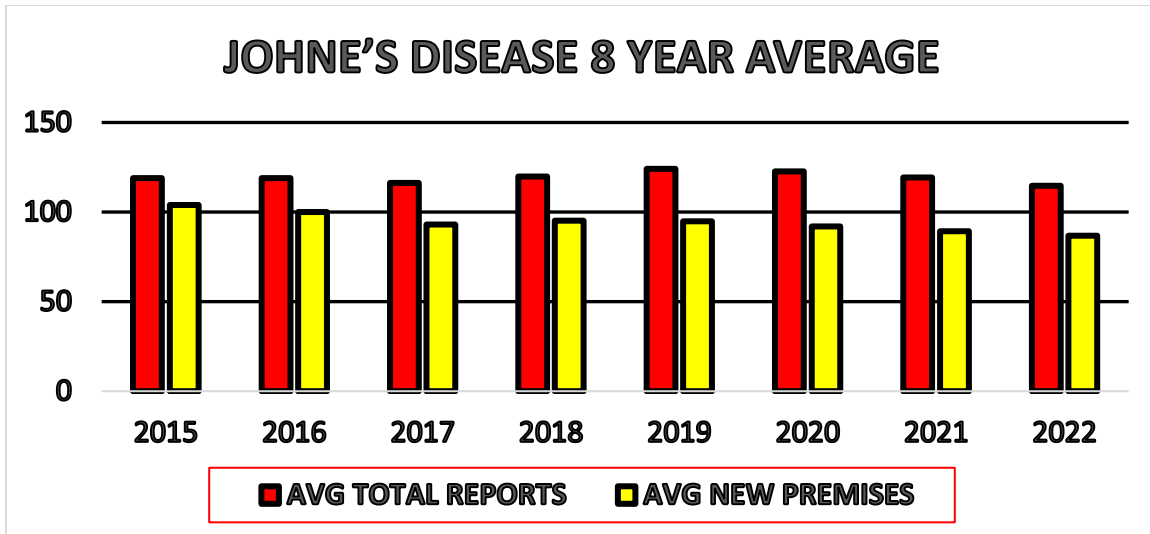
14,767 bulls tested / 44 positive = 0.3% positive

Our current statistics compare to 2.1% positive bulls in 2011, 1.4% in 2012, 1.3% in 2013, 1.4% in 2014, 1.1% in 2015, 1.1% in 2016, 0.5% in 2017, 0.32% in 2018, 0.42% in 2019, 0.35% in 2020, and 0.28% in 2021.

### **Johne's Disease:**

For the current reporting period we received 9 positive reports on 8 new premises. For the same period in 2021 we received 18 positive reports on 13 new premises.

Johne's disease reports are by nature biased. In the past we have reported on the total number within a reporting period. Some of the numbers were high and some were lower. To add to the confusion were the multiple reports from the same premise involving a confirmation test or multiple animals that tested positive. It was difficult to evaluate success, if any, in our efforts to educate our producers. And because the disease is a slowly progressive disease gathering disease trends is also slow.



#### **Emergency Management:**

On December 8, Dr. Gorczyca hosted the Multistate Partnership (MSP) for Security in Agriculture monthly call.

On November 18, Dr. Gorczyca met with Pam Zaabel with the National Pork Board to discuss enrolling Oklahoma into the Certified Swine Sample Collector training program.

On December 12-13, Dr. Gorczyca, Lee Benson, and Audrey Ochsner participated in the Kansas Department of Agriculture's annual Foot and Mouth Disease full scale exercise. It was a great opportunity to see the complex nature of this exercise in person and be able to assist with the scenario from a neighboring SAHO perspective.

On December 14, A Stress First Aid for Agriculture Responders training was held at ODAFF for both AIS and AEMS field staff. Dr. Gorczyca worked with the OKMRC Stress Response Team to modify a training that is typically provided to health care workers to be applicable and pertinent to agricultural field staff when responding to foreign animal disease outbreaks and other stressors that can come from working with livestock and producers. Dr. Gorczyca worked with Pat and Lynette in AEMS to plan the meeting. It was well attended and well received.

#### **Equine Programs:**

There are no reported cases or quarantines for CEM in Oklahoma

There are no new or current EIA cases or traces in Oklahoma.

There are no known Piroplasmosis cases or traces in Oklahoma.

#### **Farmed Cervidae Programs:**

AIS is preparing for renewal season for the Farmed Cervidae Producers. Renewal packets will be mailed out in early January. After correspondence with the Oklahoma Department of Wildlife Conservation we have established a contact person to assist us in determining which commercial hunting facilities are fully licensed and compliant with ODWC for Cervidae import permit applications.

### **Feral Swine:**

On December 5, 2022 AIS received a complaint from a feral swine hunter stating that he booked a hunt with a Commercial Hunt Area in McClain County and expected to harvest feral swine. While investigating this complaint it was discovered that the CHA was advertising boar hunting on their website. Dana Call spoke to the manager of the facility to inform them of the complaint and the findings on the website, explaining that it appears as though they are advertising hog hunts, however they are not a licensed feral swine sporting facility. The manager was instructed to either remove the references to boar hunting from the website or apply for a feral swine sporting facility license to be compliant with the law. A letter of warning was mailed to the facility after they had not removed the ad in a few weeks.

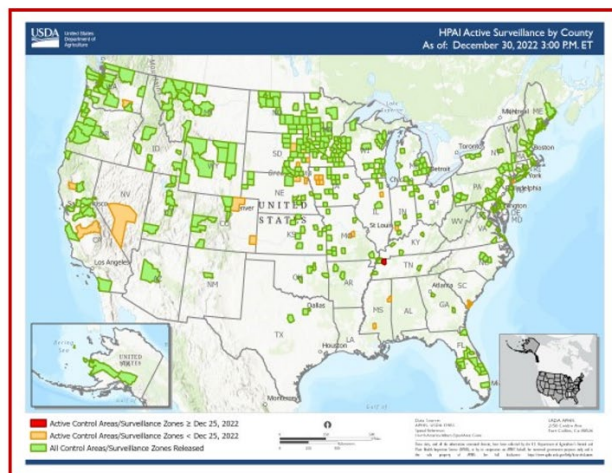
A feral swine hunter contacted AIS regarding a recently harvested feral swine with parasitic worms in the carcass. They were advised to send a sample of the worms to an animal disease diagnostic lab for accurate identification.

### **Foreign Animal Disease:**

During this time, we had six FAD investigations. Two rabbits were tested due to suspicion of Rabbit Hemorrhagic Disease, one hog was tested due to suspicion of African Swine Fever, and three chickens were tested due to suspicion of Highly Pathogenic Avian Influenza. One of the chickens was positive for HPAI and that case is described elsewhere. Thankfully the remainder of the investigations were not FADs.

On December 2 we had 1 confirmed case of Highly Pathogenic Avian Influenza in a backyard flock in Pawnee County during this time. The flock was a mix of domestic poultry and domestic waterfowl that had access to a pond on the premises where wild waterfowl were known to visit. Since wild waterfowl are the highest risk source for carrying the virus, this commingling allowed the virus to be transmitted to the domestic birds. The owners reported sudden death in multiple birds. To keep the virus from spreading, the flock was depopulated, and the birds were disposed of by incineration.

## **OVERVIEW OF THE NATIONAL SITUATION**



47 Affected States

716 Confirmed Premises

643 Control Areas/  
Surveillance Zones Released

**\*Note** This map displays domestic Control Areas and the status of each affected county. It is not reflective of the trade status of the counties.

Surveillance Zones for poultry premises were in place prior to November 15th

2





others interested in sale barn ownership. This period also allowed for the completion of an annual market development audit of federal grant funds, a new market orientation, as well as several custodial account reviews.

<u>Livestock Auction Market Activities</u>	
Auction market licenses issued	0
Auction market licenses pending	0
Market custodial audits completed	6
Auction market complaints investigated	0
Fines collected	0
Livestock Markets with Legal Action	0
Special Audits (Market Development)	1

**Outreach:**

On November 16 I gave a presentation on OSU Extension's "Coffee Shop" virtual meeting. I focused on show swine regulatory issues.

On November 17 Dr. Stone represented ODAFF at the Northeastern Veterinary Medical Association, covering the current HPAI situation in America, the new electronic Vet CVI we have available, the importance of proper CVI submission with disease traceability, and answered questions on several diseases of horse, swine, cattle, and backyard poultry biosecurity.

On November 29 Kayla Poling from the Ag Youth Council shadowed me for the day. Kayla attended a Directors Meeting with me and really enjoyed learning a lot about the agency. She had some good questions and I think enjoyed the time.

On November 30 Dr. Stone held a tissue sampling wet lab using harvested deer heads. 14 veterinary students and two wildlife students participated. This training taught proper collection of target lymph nodes and the Obex from the brain. These are samples that are routinely tested for CWD in deer, elk, and moose but the same method is used in sampling for other prion disease such as scrapie in sheep and bovine spongiform encephalopathy in cattle. Prior to the wet lab these specimens were sampled by Dr. Susan Little, parasitologist at OSU, for part of her ongoing research species and surveillance for the Asian Longhorn Tick.

On December 5 Secretary Arthur, Deputy Commissioner Rowlett, and I met with representatives from Livestock Marketing Association to discuss the issues around livestock trailer accidents and the way the livestock are handled.

On December 8 I received a call from the Canadian County Sheriff regarding a case of a producer not taking care of his cattle. They were asking for assistance in evaluating the cattle. I asked Dr. Mikka Larssen, USDA Field Veterinarian, to meet with them to do an investigation. They discussed the situation with the owner, offered suggestions and decided to give him a few weeks to rectify the situation. Dr. Larssen went back in early January and the cattle have improved body condition scores.

On December 9, Dr. Gorczyca got the opportunity to work with Destyn Emerson, Ag Youth Council member, and answer questions about veterinary medicine to assist Destyn with her project for the AYC.

On December 19 I was invited to take part in a podcast hosted by OSU Equine Program Dr. Kris Hiney. Dr. Hiney hosts the podcast for horse owners and enthusiasts. We discussed the upcoming FDA rule that will make all antibiotics that are currently able to be sold over the counter into prescription drugs. We talked about Veterinary/Client/Patient Relationships and the proper use of antibiotics.

Cattlemen's Congress is in Oklahoma City for the third year, running from December 29 thru January 14. Our LSIs are on site to help Cattlemen's Congress interns with official animal identification and health requirements for entry into the show, to assist with problems that may arise and to educate the participants of the need for BVD PI testing to keep everyone's animals safe.

#### **Poultry Programs:**

There have been 18 sick or dead birds submitted for our sick bird/dead bird program since the last board report, for a total of 152 cases this year.

Dr. Ruby attended the Arkansas Poultry Veterinarian Association meeting to participate in a round table discussion between Oklahoma, Arkansas, and Missouri regarding their state's responses to HPAI.

#### **Public Health**

On December 2, Dr. Gorczyca participated as an advisory board member for NSF EPSCoR Tick Grant, Year 4 update. This is a 5-year project funded by the National Science Foundation for investigation and mapping of tick species and tick-borne diseases in Oklahoma and Kansas. The result will be accurate mapping of the tick species and the tick-borne diseases those ticks are more likely to harbor to assist public health officials in diagnosing human tick-borne illnesses.

#### **Rabies in Livestock:**

There have been no new cases of rabies reported in livestock in Oklahoma.

#### **Sheep and Goat Programs:**

On November 18 Dr. Stone worked with a flock owner to devise and apply a feasible work plan for test and cull while managing Coxiella infection (Q Fever) within a herd of dairy goats. Unfortunately, the owner became very ill and is having to sell all the goats, so the project can't be completed.

#### **Swine Programs:**

In December, renewal forms and swine health information were sent to the validated and qualified herd program participants. Their annual renewals and first quarterly tests are due on January 31, 2023. Dana Call continues to work with veterinarians and producers to assure accuracy in the VQ herd documents and appropriate swine identification.



On December 9 our Department of Agriculture Lab reported show pig as suspect for Brucellosis. Dr. Stone collected additional samples from the pig, and they were sent to NVSL where it tested negative on a confirmatory test.

As the spring show season approaches, AIS is receiving several swine show permit applications and swine test charts. A swine health information sheet was sent to the County Extension offices for distribution to 4H, FFA and others who are interested in swine and human health.

**Miscellaneous:**

There were no miscellaneous activities during this time. We were focused and on point!

Respectfully,

A handwritten signature in cursive script that reads "Rod Hall DVM". The signature is written in dark ink and is positioned above the printed name.

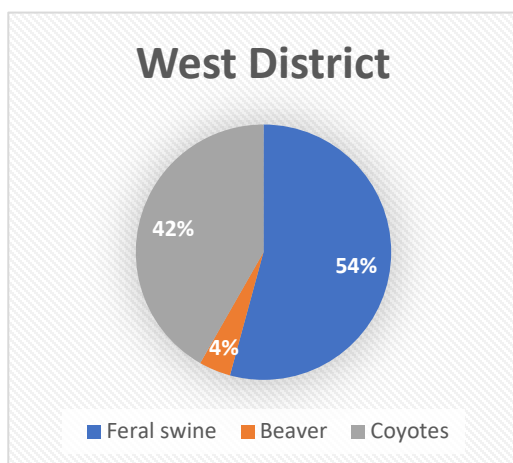
Rod Hall, DVM

**Oklahoma Department of Agriculture, Food, and Forestry**  
**Wildlife Services Division**  
**Board Report for December 2022 Activities**

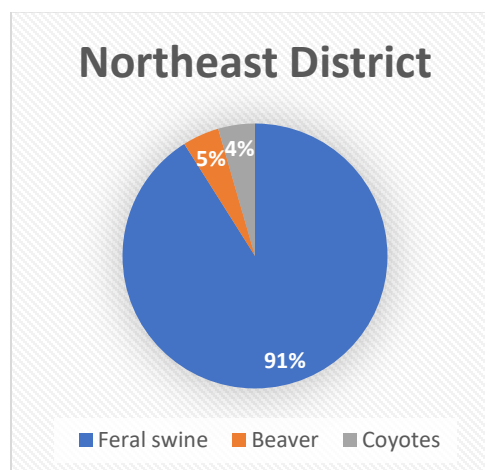
**Introduction**

Wildlife Services (WS) responds to damage complaints caused by wildlife to resources or property throughout Oklahoma. WS Specialists conduct operational damage management programs for many of the complaints they receive to resolve these wildlife damage problems. During this period, these projects were conducted on 423 properties with an estimated 964,968 acres of land under agreement. Additionally, WS helped 2,151 persons and entities with technical assistance which involved providing information to cooperators so they can resolve problems themselves. Cooperators reported and WS Specialists verified wildlife damage of \$1,173,228 during this period. Beaver damages accounted for losses totaling \$108,500. Coyotes were responsible for a number of damage requests, primarily to livestock, with losses totaling \$31,242. Feral swine damages accounted for losses totaling \$951,486, while other species of wildlife were responsible for \$82,000 in damages to property, agriculture, and livestock.

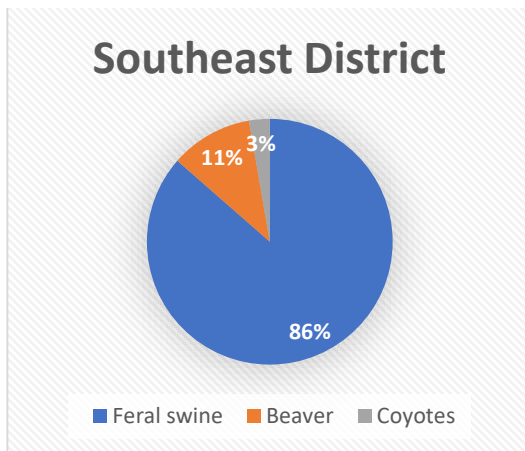
**Providing Wildlife Services**



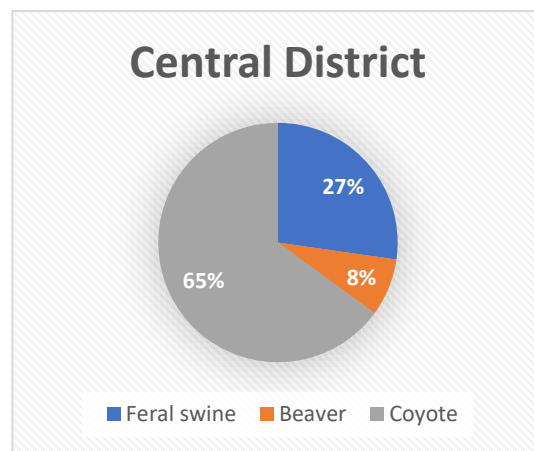
*Figure 1: Species Removed in West District by percentage during December 2022*



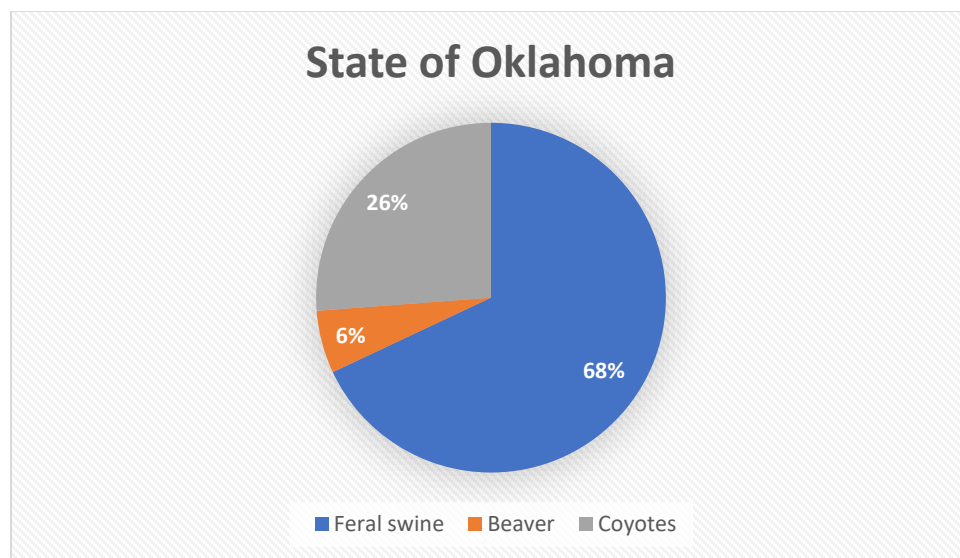
*Figure 2: Species Removed in the Northeast District by percentage during December 2022*



*Figure 3: Species Removed in the Southeast District by percentage during December 2022*



*Figure 4: Species Removed in the Central District by percentage during December 2022*



*Figure 5: Species Removed in the State by percentage during December 2022*

### **Coyote Damage Management**

**Texas County** livestock producer requested assistance with coyotes depredating on his calves. The producer reported coyotes had killed two calves valued at \$1,763. The Wildlife Specialist assigned to Texas County responded to the request and examined the carcass and confirmed that coyotes were responsible for the loss of the calf. The Specialist used leg hold traps, snares, and calling/shooting to remove fifty-three coyotes. Control efforts continue to prevent additional losses.

**Harmon County** livestock producer requested assistance with coyotes depredating on his calves. The producer reported coyotes killed a calf valued at \$1,000. The Wildlife Specialist assigned to Harmon County responded to the request and examined the carcass and confirmed coyotes were responsible for the loss of the calf. Control efforts have removed fourteen coyotes and are continuing at this time to further reduce predation losses from coyotes.

**Blaine County** livestock producer requested assistance with coyotes depredating on calves. The producer reported coyotes had killed one of his calves. The Wildlife Specialist assigned to Blaine County examined the carcass and verified coyotes were responsible for the loss valued at \$881. Damage management efforts were successful in removing eleven coyotes from the property. No further losses have occurred and work is ongoing at this time to prevent additional losses.

**Cotton County** livestock producer requested assistance with coyotes depredating on his calves. The producer reported coyotes had killed one calf valued at \$882. The Wildlife Specialist assigned to Beckham County responded to the request and examined the carcass and confirmed coyotes were responsible for the loss of the calf. The Specialist used M-44 Sodium Cyanide devices to remove seven coyotes. Control efforts continue to prevent additional losses.

**Kiowa County** landowner requested assistance with coyotes depredating on his goats. The producer reported coyotes had killed four goats valued at \$1,600. The Wildlife Specialist assigned to Kiowa County examined one of the carcasses and verified coyotes were responsible for the loss. Damage management efforts were successful in removing ten coyotes from the property. Control efforts continue to prevent additional losses.

### **Feral Swine Damage Management**

**Creek County** landowner requested assistance from WS with feral swine that had moved onto his property and begun rooting in his hayfield. A WS Troubleshooter visited the location and verified the damage estimated at \$1,500. An electronic corral-type trap was used to remove twenty-six feral swine from the property. With the help of aerial operations, twelve more were removed. No further activity has been reported or observed. Work is complete at this time.

**Pawnee County** farmer contacted WS requesting assistance with a feral swine responsible for damages to his wheat field. A WS Specialist responded to the request and verified there was a sounder of hogs on the property responsible for approximately 25 acres of damage to the wheat field valued at \$3,849. The Specialist set a live trap on the property and removed eight feral swine from the area. Trapping efforts have concluded at this time with monitoring efforts continuing.

**Lincoln County** landowner contacted WS requesting assistance with a group of feral swine rooting his pasture. A WS Specialist responded to the request and verified the damages. The Specialist set a live trap on the property to remove eight feral swine from the area. Trapping efforts have concluded at this time with monitoring efforts continuing on the property.

**Roger Mills County** landowner contacted WS needing assistance with feral swine rooting in his pastures. The landowner estimated twenty acres of his pasture were rooted up resulting in \$3,000 in damages. The Wildlife Specialist assigned to Roger Mills County responded to the request and verified the damage. A live trap was set and thirty-one feral swine were removed from the

property. No additional damage has occurred and the population in the area is being monitored to determine if additional management is needed.

***Jackson County*** landowner requested assistance with feral responsible for contaminating his silage and estimated the damage to be valued at \$8,000. The Wildlife Specialist assigned to Jackson County responded to the request and verified the damage. The Specialist set a live trap and removed thirty-two feral swine from the area. Activity in this area is closely being monitored to determine if further management is needed.

***Tillman County*** farmer requested assistance with feral swine damaging thirty of his stored hay bales. The Wildlife Specialist assigned to Tillman County responded to the request and his field inspection verified the damages to the haybales at \$4,000. The Specialist set a live trap and had used the aerial program remove seventy-seven feral swine from the property. The area continues to be monitored for activity to determine if additional management efforts are needed to reduce further damage.

***Kiowa County*** landowner contacted WS needing assistance with feral swine damaging fifteen acres of pasture estimated at \$2,400. The Wildlife Specialist assigned to Kiowa County responded to the request and verified the damage. A live trap was set and twenty-seven feral swine were removed from the property. No additional damage has occurred and the population in the area is being monitored to determine if additional management is needed.

***Murray County*** cooperator called WS for assistance with feral swine causing damage to his hayfields and getting into his yard. Damage was verified and estimated at \$3,000. After pre-baiting with corn, a remote camera trap was placed, and thirty feral swine were removed to reduce damages. This project has concluded after no further damages were reported.

***Hughes County*** cooperator called WS for assistance with feral swine causing damage to his farm and cattle operations. Feral swine activity was verified and damages were estimated to be \$2,000 to the rye fields, \$7,000 to the winter wheat fields, and \$3,000 in damages to the cattle pastures. After pre-baiting with corn, a remote camera trap was placed and thirty-two feral swine were captured and removed from the property. Aerial operations were conducted and another thirty-six feral swine were removed. This project is still being monitored.

### **Aerial Operations**

Aerial operations were conducted in ***Custer, Blaine, and Dewey Counties*** in response to several farmers requesting feral swine damaging wheat fields and pastures. Damage in the area flown was estimated at \$20,000. The helicopter was utilized for 7.1 flying hours to remove two hundred and thirty-two feral swine. This area will be closely monitored to determine if additional aerial operations are needed.

### **Beaver Damage Management**

**Haskell County** landowner contacted WS regarding beaver damage on their property. The WS Specialist verified the damage, estimated at \$9,000. Conibear traps were set and six beavers were removed from the property. Work is now complete and there is no current activity from beavers.

**Nowata County** landowner contacted WS about beavers girdling several large trees valued at \$1,500 and burrowing several large holes into his pond's dam valued at \$3,000. A WS Specialist responded to the request and verified the damage reported. The Specialist set conibear traps to remove two beavers. The landowner was instructed on environmental changes and fencing methods that can be used to prevent future damages.

**Ottawa County** landowner requested WS with assistance with beavers girdling several large trees, flooding a drainage ditch, and burrowing several large holes into his pond's dam. Total damage to the property was estimated at \$8,000. A WS Specialist responded to the request and verified the damage reported. The Specialist was able to remove two beavers with a firearm. The Specialist also used conibear traps to remove the remaining beaver. The landowner has been informed of environmental changes and fencing methods that can be utilized to prevent future damages.

**Garfield County** Road Commissioner contacted WS for assistance with beavers that were responsible for damming up the creek on one of his bridge culverts causing the water to go over the road. The Commissioner estimated the damage to the road and bridge structure to be \$3,300. The Specialist for Garfield County responded and verified the damage. The Specialist was able to remove the beavers from the creek to reduce additional damages to road and bridge.

**Stephens County** landowner contacted WS for assistance with beavers responsible for burrowing into the dam structure on his pond. The Specialist for Stephens County verified beavers were responsible for \$3,000 in damage to the dam. The Specialist used conibear traps to remove eleven beavers from the pond.

**Kingfisher County** Road Commissioner requested assistance with beavers flooding one of the roads in his district. The Commissioner reported beavers were responsible for damages totaling \$2,000 to the bridge structure and roadbed. The Specialist for Kingfisher County responded to the request and verified the damage. Conibear traps were set to remove the beavers from the creek and no further damage has occurred with work concluded at this property.

**Dewey County** landowner contacted WS for assistance with beavers responsible for burrowing into the dam structure on his pond. The landowner estimated the damage to the pond dam to be valued at \$1,000. The Specialist for Dewey County responded and verified the damage. The Specialist removed nine beavers from the pond to reduce any additional damage to the pond dam structure.

**Love County** NRSCS office contacted WS for assistance with beaver damage to the dam of a flood control lake in the district. The beaver damage to the dam was verified and estimated to be \$5,000. Conibear traps and snares were set and twenty-one beavers were removed. This project is still being monitored.

**Garvin County** rancher contacted WS for assistance with beavers cutting down trees on his property. Damages to the trees was verified and estimated at \$1,000. Conibear traps and foot-hold

traps were set and four beavers were removed. This project has concluded and no further damage has occurred.

**Johnston County** property owner called WS for assistance with beavers damaging his trees around his pond. Beaver damages were verified and estimated at \$200. Conibear traps were set and one beaver was removed. This project is still being monitored and the landowner was advised about environmental changes that may help deter future beaver damage.

*Table 1: Beaver, Coyote, and Feral Swine removal in Oklahoma by WS December 2022*

County	Beaver	Coyote	Feral swine	*District
Adair				NE
Alfalfa				W
Atoka				SE
Beaver	1	41		W
Beckham	3	12	18	W
Blaine	4	2	1	W
Bryan	6		27	SE
Caddo			82	W
Canadian	1		42	C
Carter		1	21	SE
Cherokee	2			NE
Choctaw				SE
Cimarron		6		W
Cleveland	2			C
Coal				SE
Comanche		14	49	W
Cotton		2	14	W
Craig		14	103	NE
Creek		4	70	NE
Custer			105	W
Delaware				NE
Dewey	4	8	212	W
Ellis		83	2	W
Garfield	10	14		W
Garvin	1	3	6	SE
Grady			21	W
Grant				W
Greer		20		W
Harmon		62		W
Harper		8		W

Haskell				NE
Hughes			75	SE
Jackson		21	54	W
Jefferson	3			SE
Johnston	3		3	SE
Kay			2	NE
Kingfisher	6			W
Kiowa		1	23	W
Latimer				SE
Leflore	1	1	95	SE
Lincoln				NE
Logan	6	5	16	W
Love	14			SE
Major		4	3	W
Marshall				SE
Mayes				SE
McClain				SE
McCurtain				SE
McIntosh	3		8	NE
Murray	3	5	32	SE
Muskogee				NE
Noble				NE
Nowata	4		72	NE
Okfuskee	1		5	NE
Oklahoma	9	10		C
Okmulgee	5		15	NE
Osage			23	NE
Ottawa	2			NE
Pawnee			51	NE
Payne	2			NE
Pittsburg				SE
Pontotoc	4			SE
Pottawatomie				C
Pushmataha	5			SE
Roger Mills	2	19	16	W
Rogers				NE
Seminole			60	SE
Sequoyah				NE
Stephens	8	21		W
Texas		105		W
Tillman		37	31	W
Tulsa				NE



Wagoner		1	37	NE
Washington				NE
Washita		11		W
Woods	2	2		W
Woodward	2			W
<b>TOTAL</b>	<b>119</b>	<b>537</b>	<b>1394</b>	

\*NE –Northeast, SE –Southeast, W – West, C - Central Districts

Respectfully submitted,

Scott Alls  
Division Director  
Wildlife Services Division

**December 2022 Activity Report  
for  
January 2023 Board Meeting  
  
Agricultural Statistics Division**

**General**

For the **month of December**, rainfall totals averaged 1.86 inches throughout the state, with the East Central district recording the highest precipitation at 3.15 inches and the Panhandle district recording the lowest precipitation at 0.16 of an inch. According to the December 27th, US Drought Monitor Report, 98 percent of the state was in the abnormally dry to exceptional drought category, up 3 points from the previous year. Additionally, 90 percent of the state was in the moderate drought to exceptional drought category, unchanged from the previous year. Statewide temperatures averaged in the high 30's and low 40's, with the lowest recording of -7 degrees at Vinita on Thursday, December 22nd and the highest recording of 83 degrees at Tipton on Monday, December 5th. Topsoil and subsoil moisture conditions were rated mostly adequate to short.

**Small Grains:** Winter wheat grazed reached 32 percent, down 4 points from the previous year. Rye grazed reached 2 percent, down 8 points from the previous year. Oats grazed reached 2 percent, down 1 point from the previous year.

**Pasture and Livestock:** Pasture and range condition was rated at 66 percent poor to fair. Livestock condition was rated at 71 percent fair to good.

**Surveys:** Surveys administered by the Oklahoma call center are listed in the table below:

<b>Survey</b>	<b>Enumerated by:</b>	<b>Survey Dates</b>
Row Crop CAPS	DCC	11/1 – 1/18
ITC/Census	DCC	12/15 -6/15
December Ag	DCC	11/29 -12/19
Cotton Ginnings	DCC	12/1 – 12/2
Cotton Ginnings	DCC	12/15 -12/16
January Cattle	DCC	12/31 – 1/17
January Sheep and Goats	DCC	12/31 – 1/17
Milk Production	DCC	12/31 – 1/14
Pecan PDI	DCC	1/3 – 1/11
Cotton Ginnings	DCC	1/3 – 1/4
Cotton Ginnings	DCC	1/16 -1/17

**Statistics:** On January 12, 2023, the Annual Crop Production report was published. Highlights include:

**Oklahoma Upland cotton** production is forecast at 210 thousand bales, 70 percent lower than 2021. Yield averaged 348 pounds per acre, compared with 756 pounds last year. Acreage harvested, at 290 thousand acres, is down 34 percent from last year.

**Oklahoma corn** production is forecast at 24.4 million bushels, down 45 percent from the previous year. Statewide yields averaged 122 bushels per acre, 28.0 bushels lower than 2021. Acres harvested for grain, at 200 thousand, is down 32 percent from last year.

**Oklahoma sorghum** production is forecast at 5.76 million bushels, down 72 percent from last year. Yield averaged 24.0 bushels per acre, down 30.0 bushels from the previous year. Acres harvested, at 240 thousand acres, is 37 percent lower than 2021.

**Oklahoma Soybean** production is forecast at 6.55 million bushels, down 47 percent from last year. Yield averaged 17.0 bushels per acre, down 6.0 bushels from the previous year. Acres harvested, at 385 thousand acres, is 28 percent lower than 2021.

**Oklahoma Peanut** production is forecast at 62.05 million pounds, down 7 percent from last year. Yield averaged 3,650 pounds per acre, down 800 pounds from the previous year. Acres harvested, at 17 thousand acres, is 13 percent higher than 2021.

**Oklahoma Hay** production is forecast at 3.94 million tons, down 21 percent from last year. Yield averaged 1.3 tons per acre, down .3 tons per acre from the previous year. Acres harvested, at 3.02 million acres, is 2 percent higher than 2021.

**Oklahoma Wheat Seedings** is forecasted at 4.60 million acres, up 7 percent from the previous year.

**Information Requests:** Phone calls, personal visits to our office, and requests via e-mail for information since last report totaled 39.

**Releases for December:**

Crop Production  
Certified Organic Production  
Wheat County Estimates  
Cattle on Feed  
Hogs and Pigs  
Agricultural Prices

**Relating Dates:**

December 1, 2022  
2021 Crop Year  
2022 Crop Year  
December 1, 2022  
December 1, 2022  
December 15, 2022

**Release Dates:**

December 9, 2022  
December 15, 2022  
December 15, 2022  
December 23, 2022  
December 23, 2022  
December 30, 2022

**Releases for January:**

Annual Crop Production  
Grain Stocks  
Winter Wheat

**Relating Dates:**

December 1, 2022  
December 1, 2022  
December 1, 2022

**Release Dates**

January 12, 2023  
January 12, 2023  
January 12, 2023

Cattle on Feed  
Cattle  
Sheep and Goats  
Agricultural Prices

January 1, 2023  
January 1, 2023  
January 1, 2023  
January 15, 2023

January 20, 2023  
January 31, 2023  
January 31, 2023  
January 31, 2023

**Meetings and Events:**

Oklahoma Peanut Commission Meeting  
Oklahoma Wheat Commission Meeting  
Intertribal Agriculture Council Meeting  
NASS/NASDA Award Ceremony  
AYC Session 4  
SEB/FAC Meeting  
Oklahoma Sorghum Commission Meeting  
Oklahoma Sorghum Growers Meeting  
NRCS State Technical Committee  
AYC Session 5  
Oklahoma NASDA ARMS 3 Training

**Date:**

December 1, 2022  
December 2, 2022  
December 5-8, 2022  
December 8, 2022  
December 14, 2022  
December 15, 2022  
December 16, 2022  
January 13, 2023  
January 19, 2023  
January 26, 2023  
January 31-Feb. 1, 2023

**Location:**

Stillwater, OK  
OKC, OK  
Las Vegas, NV  
Virtual  
OKC, OK  
Langston, OK  
Stillwater, OK  
Enid, OK  
Virtual  
OKC, OK  
Norman, OK

Respectfully Submitted,



Troy Marshall

# MARKET DEVELOPMENT SERVICES

January 26, 2023

Report to the State Board of Agriculture

## AG IN THE CLASSROOM

### AG IN THE CLASSROOM IMPACT

- Total Number of Teachers/Administrators Impacted: 110
- Total Number of Pre-service Teachers Impacted: 54
- Total Number of Extension Educators Impacted: 25
- Total Number of Students Directly Impacted by Coordinators: 165
- Total Number of Resources Given: 11,042
- Total Number of Teachers/PreService Teachers Resources Given to: 185
- Total Number of PreK-12th Grade Students Resources Given to: 165

### AG IN THE CLASSROOM WEBSITE, LESSON IMPACT, AND SOCIAL MEDIA

- The AITC website had 23,190 visits and 19,176 unique pageview visits.
- The AITC monthly email is delivered to 16,710 accounts.
- The AITC Facebook page now has 9,096 followers.
- The AITC Twitter page now has 584 followers.
- Oklahoma AITC Instagram account now has 667 followers.
- Oklahoma AITC Pinterest account now has 228 followers.
- The AITC YouTube channel now has 8,886 views.

### Ag in the Classroom- Professional Development Workshops

Number of Educators & Grade Level(s)	Location	Lessons/Activities Used	Resources Given
22 Pre-service OSU teachers	Oklahoma State University Willard Hall	Cotton Bolls, Pumpkin Pie in a Bag, Tree Glyph, Christmas tree cups STEM Project	Barn full of resources
12 Pre-service NSU teachers	NSU Broken Arrow	Cotton Bolls, Pumpkin Pie in a Bag, Tree Glyph	Barn full of resources
18 4-H County Educators	4-H Summit in OKC Champion Conference Center	Cotton Boll Angels, STEM Christmas Tree tower; Christmas tree Glyph	ABC Coloring Book, Ag on Rt 66, Red Dirt Symbols, Nutrition Posters, Farm Animals reader, Grow Garden Grow Reader, barns, pens, various tear sheets, soil plants and animals oh my, Farm to School cookbook
10 Elementary School teachers	Will Rogers Elementary - Stillwater	Christmas Tree, Stone Soup	Barn full of resources
19 Northwestern	Northwestern OSU - Alva	AITC Website and Resources, Pig Personality Test, Thinking in Pictures: Dr.	Barn Full of Resources

OSU Pre-service teachers		Grandin, Garden Grid Lesson, and Grady's in the Silo STEM	
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#### Ag in the Classroom- Student Events

Number of Participants & Grade Level(s)	Location	Lessons/Activities Used	Resources Given
15 2nd grade students	Deb Wood's Class - Orvin Riser Elementary Edmond, OK	Corn - Inherited Traits of Corn - National Ag in the Classroom Lesson	Corn Elementary Tear Sheets
150 3rd grade students	Perkins-Tryon Elementary School	Christmas Tree Farms and Forestry	Red Dirt Symbols

#### Ag in the Classroom- Resources Mailed or Delivered

Locations where Resources are Mailed or Delivered	
Stigler Elementary School	Garfield Elementary - Enid
Deer Creek-Lamont Elementary	Fairview High School
Bridge Creek Intermediate School	Leach Public Schools
Jenks West Elementary	McCloud Intermediate
Mannford Upper Elementary	Mark Twain Elementary - Duncan
Shidler Public Schools	Kingston Elementary
Belfonte School - Muldrow	Banner Public Schools - El Reno
Willard 5th and 6th Grade Center - Ada	Creekwood Elementary - Broken Arrow
Snyder Elementary School	Oologah Lower Elementary
Turkey Ford Elementary - Wyandotte	Payne County Livestock 4-H Club
Jefferson County OSU Extension	Oaks Academy Christian Co-op
Newkirk Elementary	Maryetta School
Cherokee Cloverbuds	Fort Gibson 4-H
Riverside Elementary School - El Reno	Grove Early Childhood Center
Pawnee Elementary School	Muldrow School
Calumet Elementary	Altus Christian Academy
Laverne Elementary	Capitol Hill Middle School - Oklahoma City

Esperanza School - Oklahoma City	Cleora School - Afton
Yale High School	Cleveland Intermediate School
Washington Irving Elementary School - Edmond	Harmon County 4-H
Covington-Douglas School	Clyde Boyd Middle School - Sand Springs
Salina Elementary School	Afton Public Schools
Hennessy Public Schools	Skiatook Elementary
St. Catherine School	Bryan County 4-H
Allen Public Schools	Chandler High School
Savanna Public School	The Met - Tulsa
John K Hubbard Elementary - Noble	Kaw Nation Child Development Center
Newsom Homeschool - Attica	DeerCreek Elementary - Edmond
Marrs Elementary - Skiatook	Sweetwater Schools
Porter School	Bradley Elementary - Drumright
Heritage Elementary - Edmond	Ward Elementary - Shidler
Tulsa County OSU Extension	Creek Elementary - Muskogee
Lawton Farmers Market	Oklahoma Union School - South Coffeyville
Little Axe Elementary	Cheyenne Elementary
Mustang Valley Elementary	Horace Mann Elementary - Duncan
Sallisaw Middle School	Summit Christian Academy
Shawnee Schools	Moseley Schools - Colcord
Tuttle Elementary Schools	Love County OSU Extension - Marietta Headstart
Union 6th/7th grade Center	Byng Public Schools
Kingsgate Elementary - Oklahoma City	MacArthur Middle School - Lawton
Coolidge Elementary - Enid	Adams Elementary - Enid
Alex Elementary	Brown Homeschool - Luther
Big Five Homeschool - Holdenville	Cornelsen Elementary - Fairview
Cleveland Elementary School	Marshall Elementary - Checotah
Duke High School	Caney Valley Middle School

High Plains Technology Center - Woodward	Guymon Northeast Elementary
North Park Elementary - Guymon	Seed and Soil Prep Academy - Chandler
Northeastern State University	Rejoice School - Owasso
Cushing Upper Elementary	Morrison Homeschool - Tulsa
Kay County 4-H	John Ross Elementary - Edmond
Burlington School	Tuttle High School
Charter Oak Elementary - Guthrie	Perkins-Tryon Elementary School
Freedom Elementary	

### Ag in the Classroom- Other Events

Event	Highlights
Read an Accurate Ag Book Week Bushel of Book Winner Presentations	Ketchum FFA
Provided lunch for Creek Elementary school in Broken Arrow	The Oklahoma Farm Bureau Women's committee partners with us to provide lunch to two schools who bring the most teachers to our summer Conference. Creekwood Elementary in Broken Arrow was one of those schools. We fed 75 teachers and staff at the school.
NAITCO grant	Oklahoma AITC submitted a grant for \$4,000 to be used specifically for professional development. AITC will find out if they receive the grant by January 15th.

## **AGRITOURISM**

### Agritourism - Site Visits

Producer	Location	Category	Highlights
Wonderland Tree Farm	Harrah	Christmas Trees	Intern took photos of trees
Cross Timbers Tree Farm & Pumpkin Patch	Harrah	Christmas Trees, Pumpkin Picking, Teachable Moments, Petting Farm	Intern took photos of trees
Molly & Socks Christmas Tree Farm	Bristow	Christmas Trees, Teachable Moments	Took ag youth council member for a job shadow
Okie Grown Farms	Bixby	Country Stay, Petting Farm	Took ag youth council member for a job shadow.
Owasso Christmas Tree & Berry Farm	Owasso	Christmas Trees, U- Pick	Visited for Christmas tree season
Pleasant Valley Farms	Sand Springs	Christmas Trees, Pumpkin Picking, Mazes, Teachable Moments	Intern took photos of trees



Leafer Lodge Christmas Tree Farm	Stillwater	Christmas Trees	Intern took photos of trees
Red Barn Christmas Tree Farm	Kiowa	Christmas Trees	Took ag youth council member for a job shadow
Mowdy Ranch Mustangs	Coalgate	Country Stays, Hunting, Wedding, Teachable Moments	Took ag youth council member for a job shadow
Lovera's Cheese Co	Krebs	Farm-to-Table	Took ag youth council member for a job shadow
All Pine Christmas Tree Farm	Yukon	Christmas Trees	Secretary Arthur visited the farm and created a video about Christmas tree production in Oklahoma
Martinbird Christmas Tree Farm	Tuttle	Christmas Trees	Job shadow with ag youth council member, created instagram reel of farm
Pioneer Homestead Christmas Tree Farm	OKC	Christmas Trees	Job shadow with ag youth council member, created instagram reel of farm
Red Bird Farm	Enid	Christmas Trees	Intern photographed farm, talked to Becky and Kent about NAFDMA, expanding with a fall season, adding food items/commercial kitchen, young farmer grant
Sorghum Mill Christmas Tree Farm	Edmond	Christmas Trees	Job shadow with ag youth council member

#### **Agritourism - New Producers or Potential Producers**

<b>Producer</b>	<b>Location</b>	<b>Category</b>	<b>Highlights</b>
Akecheta Christmas Tree Farm	Hitchita	Christmas Trees	Site visit and officially signed up into agritourism program
Mana Farms	Davis	Petting Farm/Country Stay	Site visit, listed off some things to work on before adding to program
Platter Flats Farm	SE OK	Pumpkin Patch	Site visit and officially signed up
Better Day Farms	Tulsa	Farm to table	Site visit and officially signed up
The Cedar Gate	Kingfisher	Country Stay	Site visit, potential to sign up in the future or use event space
Marina – petting farm	Pryor	Petting Farm	Site visit, listed off some things to work before adding to program

#### **Social media**

##### Facebook

- 22,295 likes
- 24,749 followers

##### Instagram

- 2,313 followers

#### **Agritourism - Other Activities**

- Phone consult/conversations with: Cedar & Stone B&B (Tishomingo), Flying M Ranch for Farm to Table Dinner, A+H Farm – OK Grown Bags, Dunagan Farms – OK Grown bags and farm hub info, Prairie earth – OK Grown bags,
- Email consultation with: Flower shop winery & pizzeria (Chickasha), Forbidden Fruits (Cyril), Honey Bear Ranch (Broken Bow), Dancing Skeleton Meadery (Sapulpa)
- Zoom consults/meetings: 2 zoom meetings with Food Bank of Eastern OK to discuss OKLAS partnership, Girls Gone Wine – updated wine profiles,
- Attend Farmer Veteran Coalition bus tour

- Attend OGIC meeting
- Create rack cards and backdrop for Market News, send to print
- Judge AFR speech contest in Enid & Stillwater
- Speak to OSU Hospitality Classes about Agritourism
- Ag Youth Council job shadow in Southeast OK
- Ag Youth Council job shadow in Northeast OK
- Interview with Radio Oklahoma Ag Network promoting Christmas Tree farms

## **ECONOMIC DEVELOPMENT**

Activity	Action
Agriculture Enhancement & Diversification Program	Fifteen (15) applications were received for the new Veteran/Young farmer grant, three (3) applications for a Farm Diversification grant One (1) Agriculture Event grant and Three (3) Veteran/Young farmer loan applications was submitted before the January 3rd deadline. The selection committee will meet in February to act on these proposals.
2019 SCBG Final Report	SCBG grant coordinator received, reviewed & edited reports for nine (9) projects that were combined in Oklahoma's Final Annual Report for the 2019 \$621,048.78 Specialty Crop Block Grant
2020 SCBG 2nd Annual Report	SCBG grant coordinator received, reviewed & edited reports for eight (8) projects that were combined in Oklahoma's 2nd Annual Report for the 2020 \$589,536.30 Specialty Crop Block Grant.
2021 SCBG 1st Annual Report	SCBG grant coordinator received, reviewed & edited reports for Six (6) projects that were combined in Oklahoma's 1st Annual Report for the 2021 \$599,596.19 Specialty Crop Block Grant.
2021 H.R. 133 SCBG 1st Annual Report	SCBG grant coordinator received, reviewed & edited reports for Nine (9) projects that were combined in Oklahoma's 1st Annual Report for the 2021 H.R. 133 \$797,812.77 Specialty Crop Block Grant.

## **FARM TO SCHOOL**

### New Contacts:

- Erin Martin -Tulsa Urban Ag Coalition/Director of Fresh Rx Oklahoma
- Morgan Nicolao – Global Gardens Tulsa Coordinator

### Resource Requests

- 35 cookbooks, 35 posters

### Other Activities

- Local Food For Schools was launched on January 4th

#### Active Partners

- Farm Bureau Women's Leadership Team
- Hunger Free Oklahoma
- Dept. of Human Services (LFPA Cooperative Agreement)
- Healthy Schools Oklahoma
- ODAFF Food Safety
- Cooking for Kids – OSU
- Oklahoma Master Gardeners – Shelley Mitchell
- National Western Heritage Museum – Gretchen Jeans
- OK History Center – Sarah Dumas

### INTERNATIONAL

Activity	Action	Location
Certificate of Free Sale	<ul style="list-style-type: none"> <li>• Lopez</li> </ul>	
Food Export	<ul style="list-style-type: none"> <li>• Staff organized the kick-off of the Focus Trade Mission to Caribbean</li> <li>• Contacting all the suppliers, setting up calls and collecting information</li> <li>• Working on recruitment for future missions</li> </ul>	
USLGE	<ul style="list-style-type: none"> <li>• Cattlemen's Congress is underway. Dec 31-Jan 14<sup>th</sup></li> <li>• So far, we have had 10 countries and 52 attendees in the International Room</li> </ul> <p>Mexico Canada Australia Norway UK South Africa Singapore Argentina Scotland</p>	
Trade Show Coordination	<ul style="list-style-type: none"> <li>• Restaurant Show) May 20-23 for an OK Pavilion. We will be recruiting companies to participate.</li> <li>• We will be monitoring the interest and attendance at the new SIAL show for future participation</li> </ul>	
Foreign Agriculture Service (FAS)	<ul style="list-style-type: none"> <li>• N/A</li> </ul>	

GIT (Governor's International Team)/ODEC	<ul style="list-style-type: none"> <li>Governor's International Team Meeting is reorganizing some committees for the coming year</li> </ul>	
Meetings	<ul style="list-style-type: none"> <li>Onboarded our new Food Export Liaison went through several MIO companies to follow up on</li> </ul>	

## **MADE IN OKLAHOMA COALITION**

### **Made in Oklahoma Coalition – Advertising, Web and Social Traffic**

<b>Type</b>	<b>\$ Spent and Information</b>	<b>Highlights</b>
MIO Featured Monthly Recipes in Tulsa World and Oklahoman	\$500/month each	Featured press release and 1-2 showcased recipes in food section
Marketing, Consulting and Graphics Retainer with Krush	\$6,750	Social media posts, digital presence, analytics, management of content and creation of digital footprint, graphic design, etc.
MIO TV Cooking Segments on Channel 6 in Tulsa and Channel 4, 5 & 9 in OKC	OKC – 10 appearances Tulsa – 4 appearances	Natalie Mikels & David Brooks, MIO TV Personalities filmed in-person and remote segments for TV
FY23 Media Campaign Reporting	<a href="https://docs.google.com/spreadsheets/d/1HUhkBRVkrGKwZf6ZZvyYTPeUTBx4I1-lprDwzDgnPwM/edit#gid=378323568">https://docs.google.com/spreadsheets/d/1HUhkBRVkrGKwZf6ZZvyYTPeUTBx4I1-lprDwzDgnPwM/edit#gid=378323568</a>  November Report: <a href="https://www.dropbox.com/s/5qw02orem77re2s/MIO_KRUSH%20Report%20-%20October%202022%20%281%29.pdf?dl=0">https://www.dropbox.com/s/5qw02orem77re2s/MIO_KRUSH%20Report%20-%20October%202022%20%281%29.pdf?dl=0</a>  December Report: <a href="https://docs.google.com/presentation/d/1HJLxg9ztJ0vi3A68XyAQLIO4rlQiDZfUgTSg3U1BoLs/edit#slide=id.g163218eb926_0_0">https://docs.google.com/presentation/d/1HJLxg9ztJ0vi3A68XyAQLIO4rlQiDZfUgTSg3U1BoLs/edit#slide=id.g163218eb926_0_0</a>	Here is a link to our original Google sheet workbook that we've been updating as the campaigns have evolved. You can toggle between all the logistical info for the co-op campaign such as the featured recipes per block, the annual media schedule, media budget, and the campaign spend tracker. It is a live link so it will be updated throughout the months as we continue our Co-Op campaigns.
Restaurant of the Month	Each month staff, along with Food Service Committee present the restaurant with their award and eat lunch as a group at their establishment.	<b>November</b> – Eddie's, Edmond  <b>December</b> – Roosevelt's, Tulsa
Social Media Stats	Staff, and MIO media committee plan social content each month with our	<a href="https://www.dropbox.com/s/38c6kros6u74n fu/Profile%20Performance%20%28Krush%29%20December%201%2C%202022%20%">https://www.dropbox.com/s/38c6kros6u74n fu/Profile%20Performance%20%28Krush%29%20December%201%2C%202022%20%</a>

	advertising agency, Krush Digital Marketing.	<a href="#">E2%80%93%20December%2031%2C%202022-4.pdf?dl=0</a>
Edible OKC Giveaways	\$100/giveaway	Each month MIO partners with Edible OKC to give away a \$100 gift card to our restaurant of the month.
MIO Monthly Newsletter		<ul style="list-style-type: none"> <li>o 2400+ distribution list</li> </ul>
OK Living Partnership highlighting MIO Recipes	Highlights 2-3 MIO recipes per month <ul style="list-style-type: none"> <li>- Free publication to electric coop members</li> </ul>	MIO provides recipe content and OK Living does the ad design
Recipes of the Month	MIO recipes are developed each month highlighting member company products.	November – <ul style="list-style-type: none"> <li>- Homemade Green Bean Casserole</li> <li>- Ham Biscuits</li> <li>- Pecan Pie Truffles</li> <li>- Twice Baked Sweet Potatoes</li> </ul> December— <ul style="list-style-type: none"> <li>- Mocha Punch</li> <li>- Peanut Butter Reindeer Cookies</li> <li>-</li> </ul>
November Retailer of the Month	Jumbo Foods	3 Locations in Enid
December Retailer of the Month	Walters Hometown Foods	2 Locations

## **MADE IN OKLAHOMA PROGRAM**

<b>Meetings/Events</b>	<b>Date</b>	<b>Location</b>	<b>Details</b>
Radio Oklahoma Ag Network	Nov. 15	Virtual	Interviewed with Radio Oklahoma Ag Network to discuss ways to shop local during holiday season.
Cowboy Christmas	Dec. 3	Stockyards (OKC)	The Made in Oklahoma Market was held in conjunction with Cowboy Christmas. We had 12 companies participate.
NAAMO State Branded	Dec. 15	Virtual	Attended zoom meeting with many other states' state branded coordinators to discuss what is working well in their state.
<b>Upcoming Event:</b>			
Tulsa Home and Garden Show	March 9-12	Tulsa	We will be having 10 booths at this show, program members submit an application and then are selected to participate.

Ag Day at the Capitol		OKC	Approximately 35 organizations and Made in Oklahoma companies will be set up at the Capitol educating about their company.
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<b>New Program Members - Producers:</b>	<b>New Program Members – Retailers:</b>
Tropical Origins	Rough Canyon Trading Company
Wild Writer Creations	OK Crates LLC
RnB Leatherworks LLC	Mollycoddled Hash Slinger
Amy Watson Artistry	Scissortail Gifts
Coffee Creek MFG	Wild Country Meats
Dark Horse Creations	
Noe-it-all	
Valmedia, LLC	

Other Made in Oklahoma Activities:

- Sent out information for additional events our members can participate in including American Farmer and Rancher Convention, Made in Oklahoma events at The Artery and more.
- Assisted potential Retailers in connecting with Made in Oklahoma Producers
- **Our online store had an increased revenue of \$1,308.38 from October to November.**

## MARKET NEWS SERVICES

November 11, 2022 – January 10, 2023

- **Grain Report:**

	November 11, 2022	January 10, 2023	DIFFERENCE
<b>WHEAT: (bu)</b>	\$8.33-\$9.13	\$7.02-\$7.92	\$1.31 to \$1.21 Lower
<b>MILO: (bu)</b>	\$6.58-\$7.28	\$6.55-\$7.05	\$0.03 to \$0.23 Lower
<b>SOYBEANS: (bu)</b>	\$13.60-\$14.40	\$13.95-\$14.90	\$0.35 to \$0.50 Higher
<b>CORN: (bu)</b>	\$7.18-\$8.08	\$7.05-\$8.05	\$0.13 to \$0.03 Lower
<b>COTTON: (lb)</b>	85.95 cents	81.76 cents	4.19 cents Lower

- **OKC NATIONAL STOCKYARDS (OKC) STEER AND HEIFERS**

### **FEEDER STEERS**

#### **Medium & Large Frame No. 1 Muscle Thickness (500-600 lb)**

- (1-11-22) \$172.00-205.50 Wtd. Avg \$188.75
- (1-9-23) \$196.00-232.00 Wtd. Avg. \$214.00

### **HEIFERS**

#### **Medium & Large Frame No. 1 Muscle Thickness (500-600 lb)**

- (1-11-22) \$142.00-179.00 Wtd. Avg \$160.50
- (1-9-23) \$174.00-204.00 Wtd. Avg. \$189.00

- **Weekly Report:**

- Nine weekly Oklahoma Market Reports were sent to 10,200 subscribers  
November 11, 2022-January 10, 2023 (**up from 133 subscribers last report**).

- **Voice Messaging System:**

- The market news voice messaging system during
- Monthly Total: November 11, 2022-January 10, 2023 **6,567 Accessed Times**
- Compared to Last Report: October 11, 2022-November 11, 2022 **6,163 Accessed Times**
- Compared to Last Month: **Accessed Times-is UP 404 on accessed times**

- **Oklahoma Agriculture Market News**

- **Facebook Page**
  - Likes/Followers 384
  - **UP 10 Likes/Followers**

- People reached through pasted report: 1,500 people
- **Oklahoma Hay Directory**
  - Hay Directory
    - Currently have 16 producers that have hay
    - 15 producers sold out of hay this past report
- **Hay Report**

**This Month:** November 11, 2022 – January 6, 2023 Hay Traded 5,958  
**Last Year** November 12, 2021 – January 7, 2022 Hay Traded 8,943  
**DOWN 2,985 Bales Reported**

### OKLAHOMA HAY MARKET REPORT

**1-6-23**

**Receipts: 1,130 Last Reported: 1,330 Year Ago: 2,762**

Compared to the last report: Hay trade was light during the holiday weeks. Few trades did move but not enough for any trends to be made. As we look at the Oklahoma Mesonet Drought Monitor we are at 11.65 percent in exceptional drought, 56.13 percent in an extreme drought, 80.92 percent in severe drought, 89.73 percent in moderate, 98.18 percent in abnormally dry conditions, and 1.82 percent that has no drought conditions are located in Adair County.

\*\*\* The next report release will be on January 21st\*\*\*

**Central**  
**Alfalfa: Premium (Ask/Per Ton)**  

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square	0	275.00		F.O.B

**North Central**  
**Bermuda Grass: Good (Ask/Per Bale)**  

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	0	125.00		F.O.B

**Northeastern**  
**Alfalfa: Premium/Supreme (Trade/Per Ton)**  

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	240	350.00	350.00	Delivered

**Prairie/Meadow: Premium (Ask/Per Bale)**  

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Medium Round	0	125.00		Delivered

**Prairie/Meadow: Good (Ask/Per Bale)**  

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Medium Round	0	90.00	90.00	Delivered

**Northwestern**  
**Alfalfa: Supreme (Ask/Per Ton)**  

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square	0	380.00		Delivered

**Alfalfa: Good (Trade/Per Ton)**  

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square	440	310.00	310.00	Delivered

**Grass: Good (Trade/Per Ton)**



Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	240	260.00	260.00	Delivered

**Grass: Good (Ask/Per Ton)**

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	0	150.00	150.00	F.O.B

Southwest  
**Milo: Good (Trade/Per Ton)**

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	210	175.00	175.00	Delivered

West  
**Mixed Grass: Good/Premium (Ask/Per Ton)**

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	0	95.00		Delivered

## **AEMS Division Activities Meet our New Employees**



Jones Quarcio is our Environmental Programs Specialist III and will be working with our Poultry Program. Welcome, Jones.



Annette Conley is our new Optical Imaging Specialist. Welcome, Annette.

- AEMS, in coordination with the Animal Industry Services Division, attended stress management training focusing on agricultural staff and farmers. The goal was to bring awareness to our field staff on signs of stress and first-aid response.
- AEMS staff participated in the Oklahoma Water Research Advisory Board meeting, which reviews water research project proposals for funding through the Oklahoma Water Research Grants Program.
- The 106 Grant semi-annual report was submitted to the Secretary of Energy and Environment. As of October 2022, OWRB has monitored 127 wells for FY23.
- The AEMS AgPDES permits are still moving forward:
  - The CAFO general permit completed public comment on December 18, 2022. We are working with EPA to review and respond to all comments.
  - The Pesticide general permit was approved by EPA the 2nd week of January and posted for public comment January 17, 2023.

- The Stormwater Construction general permit was updated with EPA comments and returned for final review on January 10, 2023. Following their approval, the permit will be available for public comment.
- AEMS participated in the Illinois River Watershed working group calls.
- AEMS staff attended the two-day Oklahoma Governor's Water Conference.

#### AgPDES Permitting Activities

- Number of AgPDES CAFO Authorizations this reporting period: 0
- Number of AgPDES PGP Authorizations this reporting period: 0
- Number of AgPDES CGP Authorizations this reporting period: 5

#### Complaints and Inspections

A summary of the complaints received and investigated plus all the inspections and technical assistance conducted by the ODAFF AEMS Staff for this reporting period:

28	Complaints received and investigated this reporting period
7	Complaints closed this reporting period
Complaints Received - Breakdown	
	Cattle - 2
	Swine - 2
	Poultry- 1
	Misc. Animal - 4
	Other - 3
	Animal Shelter - 1
	Pet Breeder- 15
80	Year-to-date complaints received in FY 23
28	Year-to-date complaints closed in FY 23
113	LMFO/CAFO inspection and technical assistance
330	Poultry inspections and technical assistance
61	Pet Breeders/Shelters inspections and technical assistance

#### CAFO and LMFO Activities - Month and Fiscal Year 2023

	Oct 24 – Dec 31 2022	FY 23 Total
Complaint or Compliance Follow-ups	17	36
Annual Inspections	95	301
Technical Assistance with Contacts	18	75
Site Visit/Review – No contact made	13	42

#### Poultry Activities – Month and Fiscal Year 2023

	Oct 24 – Dec 31 2022	FY 23 Total
Complaint or Compliance Follow-ups	6	14
Annual Poultry Inspections	81	162
Poultry Technical Assistance	249	701
Site Visit/Review – No contact made	100	346
Eucha-Spavinaw CNMP Written	13	53

### Pet Breeders Activities – Month and Fiscal Year 2023

	Oct 24 – Dec 31 2022	FY 23 Total
Complaint or Compliance Follow-ups	29	86
Breeder/Shelter Technical Assistance provided w/owner/operator	33	144
Breeder/Shelter Annual Inspections	28	252
Breeder/shelter Close out	0	7

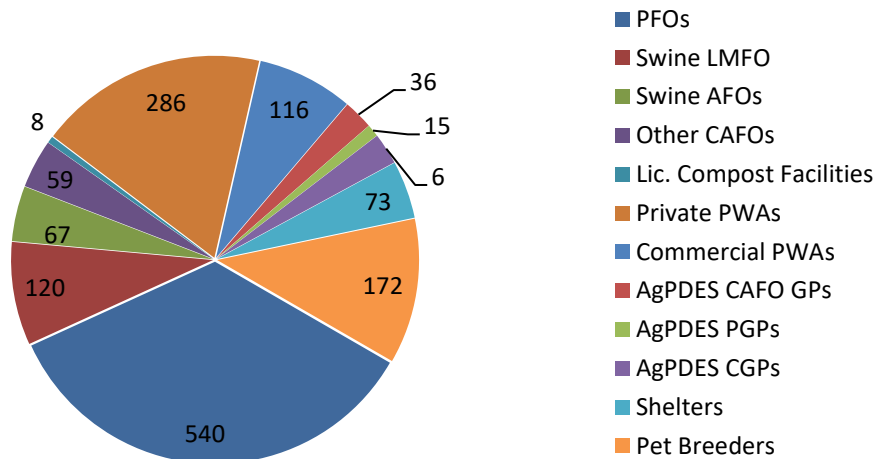
### AGPDES – Month and Fiscal Year 2023

	Oct 24-Dec 31 2022	FY 23 Total
Complaint or Compliance Follow-ups	0	5
Site Inspections (Annual or Compliance follow-up)	4	17
Technical Assistance provided with owner /operator	4	28

### Composting Activities – Month and Fiscal Year 2023

	Oct 24 – Dec 31 2022	FY 23 Total
Complaint or Compliance Follow-ups	8	22
Site Inspections (Annual or Compliance follow-up)	2	16
Technical Assistance provided with owner /operator	1	11

### Current FY 23 AEMS Numbers



Respectively,

Teena G. Gunter  
AEMS Division

**BEFORE THE STATE BOARD OF AGRICULTURE  
OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
JANUARY 2023 BOARD REPORT  
REGARDING NOVEMBER 14, 2022 THROUGH JANUARY 8, 2023  
ACTIVITIES OF THE  
OFFICE OF GENERAL COUNSEL**

**AMOUNT OF ADMINISTRATIVE FINES COLLECTED:**

<b>Amount to Date (2023)</b>	<b>Amount of Fines for this Board Meeting</b>
\$0.00	\$10,000
\$207,400.00	2022
\$57,475.00	2021 Total (5/31-12/31/2021)

**CONTRACTS REVIEWED OR DRAFTED (124):**

Marketing: 19
CPS: 3
Forestry: 92
AIS: 5
Admin: 3
OGC:1
Inv. Serv: 1

**ADMINISTRATIVE HEARING PROCEEDINGS:**

Total Number of Open Cases: 79
Total Number of New Cases: 17
Total Number of Cases Closed: 0
NOVs Sent: 24

**OTHER ACTIONS AND PROCEEDINGS:**

<b><i>Kirk Marshall v. ODAFF</i></b> , Oklahoma County District Court Case No. CJ-2020-1347: Petition served. Time period tolled by Supreme Court Order until May 15, 2020. Answer drafted and prepared for filing. Application for Injunction Denied. Answer filed. Hearing held. Amended Petition filed by Plaintiff. Answer to Amended Petition filed. District Court Order AFFIRMED by Court of Civil Appeals. ODAFF Amended Motion to Dismiss pending.
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<b><i>Laura Garrison v. State of Oklahoma, ex rel. Oklahoma Department of Agriculture Food and Forestry</i></b> , Pittsburg County District Court, Case No. CJ-2020-111: Lawsuit involves vehicle accident between plaintiff and ODAFF employee. Attorney General's Office is handling this claim.
<b><i>Upton's Naturals Co v. Stitt and Arthur</i></b> , District Court, W.D. Oklahoma, Case No. 5:20-cv-00938: Lawsuit against Governor Stitt and Secretary Arthur in their professional capacities. Upton's Naturals challenges a state law that prohibits food manufacturers from using terms like "hot dogs," "burgers," or "bacon" on labeling for meat-free products. The Attorney General's Office is handling this claim.
<b><i>William Grossman v. Lori Howard et al.</i></b> , Cherokee County District Court, Case No. CJ-2020-111: Lawsuit filed on the agency and Forestry Services requesting damages for a car wreck that occurred during a prescribed burn. The prescribed burn was not performed by ODAFF and the agency was not involved with the circumstances. The Attorney General's Office is handling this claim.
<b><i>Spring Creek Coalition v. ODAFF and Trong</i></b> , Cherokee County Case Number CJ-2021-29: Petition seeking declaratory and injunctive relief. Answer filed.
<b><i>Spring Creek Coalition v. ODAFF and Phan, et al.</i></b> , Delaware County Case Number CJ-2021-33: Petition seeking declaratory and injunctive relief. Answer filed. Discovery ongoing. Responded to Motion for Summary. Motion to Dismiss filed. Hearing set January 20, 2023

### **MEETINGS:**

<b>Date</b>	<b>Activity</b>
November 14, 2022	Open Records/Open Meetings
November 16, 2022	USDA Civil Rights Cases webinar
November 16, 2022	OGC/HR
November 21, 2022	OGC/OHRC HR meeting
November 23, 2022	OGC/Investigative Services HR Meeting
November 23, 2022	OGC/HR
November 24, 2022	OGC/Administrative Services
November 29, 2022	Director's Meeting
December 2, 2022	Oklahoma Wheat Commission
December 2, 2022	OBA Environmental Law Section
December 5, 2022	Directors Meeting
December 6, 2022	Nutrient Management Plan Technical Working Group
December 6, 2022	CPS annual meeting
December 6, 2022	OBA Legislative Monitoring Committee
December 6, 2022	OBA GALPS
December 7, 2022	Governor's Water Conference
December 7, 2022	State Board of Agriculture
December 8, 2022	Governor's Water Conference
December 8, 2022	OGC Docket
December 8, 2022	Illinois River Technical Group

December 9, 2022	OBA GALPS annual CLE
December 12, 2022	Directors Meeting
December 12, 2022	Montana Grain Association
December 13, 2022	ODAFF/EPA CGP
December 21, 2022	ODAFF/EPA monthly
December 29, 2022	Commissioners of Land Office
January 3, 2023	OBA GALPS monthly
January 3, 2023	EPA/Ag WOTUS briefing
January 3, 2023	EPA/State and Local Government WOTUS briefing
January 5, 2023	Emergency Drought Commission

### **RULE ACTIVITIES:**

<b>Chapter 17. Water Quality (Emergency FY 2023):</b> Emergency rules were adopted by the Board on September 15, 2022 and approved by the Governor on October 20, 2022. Emergency rule document was filed and rules became effective on October 20, 2022.
<b>Chapter 40. Market Development (Emergency FY 2023):</b> Emergency rules were adopted by the Board on July 27, 2022 and approved by the Governor on August 10, 2022. Emergency rule document was filed and rules became effective on August 10, 2022.
<b>Chapter 1. Administrative Operations (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.
<b>Chapter 2. Fees (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.
<b>Chapter 10. Agricultural Products (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.
<b>Chapter 15. Animal Industry (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.
<b>Chapter 17. Water Quality (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.
<b>Chapter 20. Forestry (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted

rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.
<b>Chapter 30. Consumer Protection (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.
<b>Chapter 37. Food Safety (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.
<b>Chapter 40. Market Development (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.
<b>Chapter 44. AgPDES (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.
<b>Chapter 50. Aquaculture (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.
<b>Chapter 55. Commercial Pet Breeders and Animal Shelters (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.
<b>OHRC</b>
<b>Chapter 1. Commission Powers and Jurisdiction (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.
<b>Chapter 10. Racing Organization (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.
<b>Chapter 15. Licensing (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.
<b>Chapter 20. Racing Officials and Racing Personnel (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.



<b>Chapter 25. Entries and Declarations (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.
<b>Chapter 30. Claiming Races (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.
<b>Chapter 35. General Conduct (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.
<b>Chapter 50. Human Substance Abuse Testing (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.
<b>Chapter 55. Fire Prevention and Security (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.
<b>Chapter 65. Pari-Mutuel Wagering (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.
<b>Chapter 70. Objections and Protests; Hearings and Appeals (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.
<b>Chapter 75. Oklahoma-Bred Program (Permanent FY 2023):</b> Prepared notice of rulemaking intent, rule impact statement, and rule text for proposed rule amendment; submitted rulemakings to Governor's office, Oklahoma Secretary of Agriculture, and Office of Administrative Rules; and conducted public hearing on January 4, 2023.

### **OPEN RECORDS REQUESTS (27):**

AEMS: 8
CPS: 6, 4
AIS: 5
Forestry: 3
Pet Breeders: 3
Inv. Services: 2

## **OKLAHOMA HORSE RACING COMMISSION**

<b>Litigation: Alfredo Gomez and Cruz Villafranco v. OHRC</b> , Oklahoma County District Court Case No. CV-2020-430: Petition served. Response filed. Petitioners' Motion for Partial Summary Judgment responded to. Pending hearing.
<b>Litigation: Oscar Nunez v. OHRC</b> , Oklahoma County Case No. CV-2020-449: Petition filed and served. Answer filed. Reversed and remanded. Rehearing held. Motion to Modify District Court's Order of November 10, 2020 hearing held. Further briefing ordered. Pending Court's decision.
<b>Litigation: Miguel Pena v. OHRC</b> , Oklahoma County District Court Case No. CV-2019-179: Petition for Temporary Restraining Order and Petition for Injunction. Ex Parte TRO hearing held October 11, 2019. TRO entered. Amended Petition for TRO heard May 15, 2020. TRO denied. Permanent injunction denied. Pending Motion to Dismiss.
<b>Litigation: Jose Sanchez III, et al. V. Global Gaming, Heritage Place and OHRC</b> , Oklahoma County District Court Case No. CJ-2020-2395: Petition for Temporary Restraining Order and Petition for Injunction. Ex Parte TRO hearing held May 26, 2020. TRO denied. Further action pending.
<b>Litigation: Sammy Howard v. OHRC</b> , Oklahoma County District Court Case No. CV-2020-1921. Petition served. Response filed. Briefs filed. Oral arguments held. Remanded for further proceedings. Order filed. Motion to Reconsider filed. Hearing reset by the Court to August 19, 2022.
<b>LITIGATION: Rogelio Marquez, Jr. V. OHRC</b> , Oklahoma County District Court Case No. CJ-2021-3393. Petition filed. Injunction sought. Hearing held; Injunction denied. Pending further proceedings. (Trailing OHRC v. Heltzel)
<b>Litigation: Carlos Ruiz v. OHRC</b> , Oklahoma County District Court Case No. CV-2021-2591. Petition Served. Response filed. Record filed. Pending briefing.
<b>Litigation: Etniel Sanabria v. OHRC</b> Tulsa County District Court Case No. CV-2022-1899. Petition for Temporary Restraining Order and Petition for Injunction. Ex Parte TRO hearing held September 21, 2022. TRO DENIED. OHRC Response and Motion to Dismiss filed. Motion to Disqualify Judge filed and heard. Case reassigned. OHRC Motion to Dismiss sustained. Motion to Vacate Order of Dismissal filed by Plaintiff. OHRC Response filed. Pending hearing.
Prepare cases for presentation at Stewards Hearings
Prepare cases for presentation in District Courts
Provide discovery to opposing counsel and Respondents regarding various hearings
Stewards Hearings at Remington Park
Stewards Hearing at Will Rogers Downs
Hearings in District Courts
Prepare and file Response to Petition for Temporary Restraining Order and Petition for Injunction
Prepare response to brief in support of Petition for Appeal
Argue appeals at regular session of the Oklahoma Horse Racing Commission
Discuss possible rule revisions/amendments with Executive Director
Draft proposed rule revisions
Advise Executive Director on extent of delegated authority

Discuss certain policy issues with Executive Director
Review communication from Respondents' counsel in various cases
OHRC regular meeting
Supervise and direct OHRC legal intern
Attend ARCI Rules Committee meeting
Consult with OHRC regarding gaming issues
Attend briefings and meetings regarding Horse Racing Integrity and Safety Act (HISA)
Consult with concerned constituents regarding HISA
Respond to open records requests
Consult and advise on HR issues

**OTHER ACTIVITIES:**

Phone calls or emails with the public: 19
Assistance to industry: 8
Assistance to AEMS: 16
Assistance to CPS: 14
Assistance to Wildlife Services: 1
Assistance to Forestry: 5
Assistance to AIS: 9
Assistance to Admin: 7
Assistance to Market Development: 3
Assistance to other state agencies: 10
Assistance to federal agencies: 0
Assistance to Food Safety: 5
Assistance to NASS: 0
Assistance to Executive Office: 8
Assistance to Lab: 6
Assistance to Investigative Services: 1
Assistance to Legislature: 4
Assistance to Attorney General: 0

Respectfully Submitted,



Teena G. Gunter  
General Counsel

## **FOOD SAFETY REPORT DECEMBER 2022**

### **POULTRY& EGG GRADING, PRODUCE AND ORGANIC SECTION**

#### **Poultry and Egg Section**

In Broken Bow at Tyson Foods, USDA poultry grading was performed by ODAFF inspectors on 2,058,802 pounds of poultry – boneless/skinless leg meat & bone in/skin on parts and ground meat. ODAFF inspectors provided USDA Shell Egg grading on 82,402 dozen eggs at Cal-Maine Foods Inc. at Sulphur. ODAFF inspectors provided USDA poultry grading services on poultry products being shipped from National Steak & Poultry Quality Meats in Owasso. ODAFF inspectors also provided USDA poultry grading services on poultry products being shipped from OK Foods in Muldrow & Heavener. Child Nutrition Labeling Program Reviews were conducted under the USDA cooperative agreement at OK Foods in Oklahoma City and Mitchell's Sausage Rolls in Claremore. Also; routine egg quality inspections under the Oklahoma egg law were conducted.

#### **Organic Foods Section**

Organic inspectors completed compliance and certification inspections at:

- Nine organic crop producers
- Two organic livestock producers
- Three organic processors
- Collected six organic samples
- Eleven retail organic inspections
- The organic section had requests for 3,000 certified organic stickers from Oklahoma Certified Organic producers and processors, which display the stickers on all products sold, labeled, or represented as Organic across the United States. The organic section had 5 requests for organic crop applications, 2 requests for organic livestock applications and 2 requests for organic processing applications.

#### **Produce Safety Section**

- Justin McConaghy, Bryan Buchwald and Jamie Allen-Hitt attended the NASDA Produce Safety Consortium in Phoenix, AZ
- Shared information about the law and growing safe produce at an OSU Food Safety class
- Assisted farms with 1 on-site technical assistance and 6 remote technical assistances
- Contacted 13 farms to determine coverage/exemption under the Produce Safety Rule
- Conducted 1 farm inspection
- Regular conference calls with TX, LA, AR, NM, MO, MS
- AFDO Produce Safety Committee sessions
- Sent an e-mail newsletter to inform farms of the latest information on Produce Safety

#### **Homemade Food Freedom Act**

- Received 2 complaints on the Homemade Food Freedom Act.
- Sent 1 warning letter.
- Meat Compliance helped with 2 complaints.
- Taught at one Homemade Food Freedom Act class with OSU.
- One case was sent to legal counsel.

## Oklahoma Meat Inspection Services Investigations and Compliance Activities

Planned Compliance Reviews	13
Random Compliance Reviews	159
Person-to-Person Contacts	62
Special Investigations and/or Projects	04
Reports of Apparent Violations	04
Detentions	00
Consumer Complaints	05
Verbal Warnings Issued	09
Letters of Warning Issued	04
Samples Submitted to Lab for Analysis	00
Accident Investigations	00
Administrative Procedures Act	01 ENID PACK

### See details below:

ACCIDENT LOCATION	ANIMAL/PRODUCT	DISPOSITION
HWY 169 S. Delaware, Oklahoma	42443 pounds of fresh, uncured pork hams	Whole load was voluntary destroyed took to Vian, OK Landfill

### Highlighted Activities

During the course of Random Reviews and anonymous Consumer Complaints, Compliance and Investigation Services sent out Four (4) Letter of Warning for Violations of the Oklahoma Meat/Poultry Inspection Act and/or State Statutes.

### MEAT INSPECTION

<b>Number of Cattle</b>	<b>732</b>
<b>Total Beef Condemned</b>	<b>5,120 lbs</b>
<i>(Beef heads &amp; livers)</i>	
<b>Number of Swine</b>	<b>68</b>
<b>Total Pork Condemned</b>	<b>910 lbs</b>
<i>(Pork heads &amp; livers)</i>	
<b>Number of Sheep and Goats</b>	<b>3,686</b>
<b>Total Condemned</b>	<b>0 lbs</b>
<b>Number of Rabbits</b>	<b>0</b>
<b>Total Condemns</b>	<b>0 lbs</b>
<b>Number of Exotic Deer</b>	<b>0</b>
<b>Total Condemns</b>	<b>0 lbs</b>
<b>TOTAL MEAT INSPECTED</b>	<b>934,600 lbs</b>

### PROCESSED MEAT INSPECTED

<b>Processed Red Meat</b>	<b>602,760 lbs.</b>
<b>Condemned on Reinspection</b>	<b>0 lbs</b>
<b>Poultry (Portions)</b>	<b>198,572 lbs</b>
<b>Condemned on Reinspection</b>	<b>0 lbs</b>
<b>Rabbit Meat</b>	<b>0</b>
<b>Condemned on Reinspection</b>	<b>0 lbs</b>
<b>Exotic Deer Meat</b>	<b>0</b>
<b>Condemned on Reinspection</b>	<b>0 lbs</b>
<b>TOTAL PROCESSED MEAT INSPECTED</b>	<b>801,332 lbs</b>

Meat Sample activity:

32 Samples Submitted for Analysis

0 Samples Not Analyzed

32 Samples Analyzed

0 Samples Non-Compliant

32 Samples Negative Analysis

Dec. 8<sup>th</sup> – 9<sup>th</sup>

We interviewed for 2 positions in the Southeast district and 1 position in the Northwest district starting date will be Jan. 3<sup>rd</sup>.

## DAIRY SECTION

Dairy staff conducted routine inspections at dairy plants and farms, conducted dairy plant equipment checks and collected ice cream samples, raw milk and retail milk and milk products samples and container samples for laboratory analysis.

Dairy Services staff continues to sample ice cream products at Blue Bell in Broken Arrow related to the *Listeria monocytogenes* product contamination and outbreak in 2015. Since starting back up in September of 2015, all samples collected and analyzed by ODAFF have been negative for *Listeria monocytogenes*.

Dairy Services staff continues to sample Swans Dairy for campylobacter and *Listeria Monocytogenes*. Samples where all negative.

Dairy Services staff recently completed three surveys. The surveys resulted in passing scores for sanitation and enforcement compliance. These passing scores are listed on FDA's Interstate Milk Shippers List website and allows for the interstate shipment of milk produced by Oklahoma dairy farmers

Sincerely,

A handwritten signature in black ink that reads "Scott Yates". The signature is written in a cursive, flowing style with a horizontal line extending from the end of the name.

Scott Yates  
Director of Food Safety

## Communications

Compiled 1/12/23

### *Social Media Highlights*

**ODAFF Recognizes National Livestock Judging Champions – Dec. 6** | For the first time in history, livestock judging teams from an Oklahoma high school, junior college and senior college claimed victory at the national championships.

Congratulations to Tuttle FFA, the NOC Livestock Judging Team, and the Oklahoma State University - Livestock Judging Team for their success.



**Christmas Videos** | Throughout December, ODAFF produced five Christmas-themed videos highlighting Oklahoma agriculture. With help from local business owners and producers, the videos showcased an Oklahoma Christmas Tree Farm, promoted Oklahoma beef, pork, and wheat, and we even got a special appearance from Santa Claus as he helped Dr. Hall provide his Christmas message.

**Cattlemen's Congress Visit w/Gov. Stitt – Jan. 5** | The third annual Cattlemen's Congress returned to OKC Dec. 31-Jan. 14. Governor Kevin Stitt and Secretary Blayne Arthur expressed their support together on Jan. 5.

This year, exhibitors traveled from over 40 states across the nation to take part in the 15-day event.



**Sec. Arthur Sworn in For Second Term – Jan. 9** | Surrounded by family and friends, Blayne Arthur was sworn in Monday for her second term as Oklahoma Secretary of Agriculture.



## ***Social Media Impact***

### **Facebook**

*21,250 followers*

*Since Dec. 8, 2022:*

- Posts and content reached 60,369 users (**up 52.7%** vs. previous period)
- 105 new Facebook users have liked the ODAFF page (**up 8.2%** vs. previous period)

### **Instagram**

*2,811 followers*

*Since Dec. 8, 2022:*

- Posts and content reached 7,166 users (**down 1.4%** vs. previous period)
- 69 new Instagram users have followed the account (**up 13.1%** vs. previous period)

## **News & Notes**

***Ag Youth Council*** / AYC members learned how Oklahoma agriculture can help make the holiday season better by visiting a Christmas Tree Farm and a local candy business. They also heard from the Oklahoma Beef Council and Oklahoma Agritourism before finishing the day off with a gingerbread house competition. All festivities were coordinated by Audrey Ochsner and Troy Marshall.

***New WOTUS Rule*** / The EPA established a new WOTUS rule on Dec. 30, 2022, which prompted Sec. Arthur to issue a statement chiding the EPA. Arthur said in part, "...We believe this illustrates a lack of regard for those that are doing the work to feed our nation and world."

***Emergency Drought Commission*** / The Emergency Drought Commission met Jan. 5, 2023, and directed all remaining funds allocated to the Commission. The funding directed by the Commission totaled approximately \$5 million that will be distributed by the Oklahoma Conservation Commission through the existing Cost-Share Program.

# JANUARY 26, 2023 BOARD MEETING

## PURCHASES/CONTRACTS

### Administrative Services

#### **FY23 – Purchase of new agency vehicles - \$450,000**

These vehicles are needed to replace aging fleet vehicles. Replacement of these vehicles are critical to the agency mission and if not replaced may put the employee and public at greater risk.

### Animal Industry Services

\$32,106 - Cooperative Agreement for US Swine Health Improvement Plan (SHIP) funds for April 2023 through March 2024. Funding will support the OSA Coordinator to conduct outreach to the swine industry in Oklahoma to encourage enrollment and certification within the US SHIP. It will support travel for the OSA Coordinator to participate as a voting member at the 2023 Annual US SHIP House of Delegation meeting.

### Consumer Protection Services

Repair of large vehicle scale truck bed - \$9,800.00

### Food Safety Services

#### **NTT – \$6,138.41**

The Oklahoma Department of Agriculture, Food & Forestry has a Federal Trust Cooperative Agreement with the United States Department of Agriculture, Agricultural Marketing Service. The Oklahoma Department of Agriculture, Food & Forestry Poultry Services has brought in a significant amount of revenue in the past several years and continues to bring in this revenue from this program. With the significant amount of revenue this program is bringing into the ODAFF; buying equipment instead of renting would allow us to utilize these funds to improve our infrastructure and not be tied into a long term rental agreement.

(2) Dell Latitude 7430	\$1,491.82 each	\$2,983.64.	(2)
(1)Dell Premier Active Pen		\$ 62.85.	(1)
(1)Standard Dell Precision 7670		\$2,341.71	(1)

### Forestry Services

#### **FY 24- \$15,000**

Purchase of shipping bags used to distribute seedlings to landowners in Oklahoma and surrounding states. Bags are specifically designed with paraffin lining to retain moisture during the shipping process thereby maintaining seedling quality. **Justification:** without bags, there is no way to deliver seedlings to customers.

**FY24 - \$25,000**

Renewal of agreement/membership with Western Gulf Forest Tree Improvement Cooperative (WG TIP). **Justification:** The agreement with Western Gulf Forest Tree Improvement is essential in helping FTIC receive new information for improving genetic research for Oklahoma and to get tree breeding information from other WG TIP partners.

**FY24 - \$15,000**

Renewal of agreement/membership with Auburn Nursery Cooperative (contingent upon Federal Forest Stewardship grant allocation). It is essential that FRC have the agreement with Auburn Nursery Cooperative to be able to use certain chemicals under their license when fumigating fields. **Justification:** without this membership, the cost to fumigate, which is needed to produce tree and shrub seedlings, would increase to more than \$100,000.

**FY24 - \$50,000**

Fumigation to control insects, disease pathogens and weed seed, like nutgrass, in production fields at Forest Regeneration Center in Goldsby. **Justification:** without fumigation control, insects, weeds, and disease issues would result in poor quality seedlings and increased cost.

**FY24 – \$15,000**

Pesticides for seedling production at the Forest Regeneration Center and Forest Tree Improvement Center (FTIC). **Justification:** without pesticides seed, seedlings quality and production would decrease because of problems with insects, fungus, and weeds.

**FY24 – \$15,000**

Tree and shrub seed for use at the Forest Regeneration Center and Forest Tree Improvement Center. OFS personnel collect most seed used, but some varieties are more economically feasible to purchase seed than to send crews out to collect it. **Justification:** without this purchase, we would be more restricted on what we could grow and either seedling production would be reduced, costs would be increased, or both.

**FY24- \$18,000**

Pinecone collection at FTIC seed orchard in Idabel is vital to enhanced genetics and vital to our conservation seedling program. They provide the best genetically suited pine trees for Oklahoma landowners. Contracting experienced labor to collect seeds is required due to lack of personnel. **Justification:** without this purchase, pinecone seed would not be collected, and the seedling program would be severely limited.

**FY24- \$30,000**

Contract harvesting services is needed by qualified, trained workers to lift 3 million seedlings. Each year, the Forest Regeneration Center (FRC) delivers up to 3 million seedlings to Oklahomans for conservation planting. To meet the planting demands of landowners throughout the state, a steady supply of seedlings is required. To make sure our customers have quality, healthy seedlings, delivered on schedule, a trained harvesting crew is required to lift these seedlings. Some of the harvesting will be completed by FRC staff. However, we no longer have the inmate crews that we used in the past. **Justification:** without this purchase, we will not be able to lift the seedlings in a timely manner and we will fail to meet the delivery requirements for Oklahoma customers.

**FY24- \$9,500**

Purchase sulfur 90% Pastille for Forest Regeneration Center. The sulfur is needed to keep the soil pH between 5 and 6.5 for all the conservation seedlings grown at FRC which are sold to landowners throughout Oklahoma and the nation. Without this purchase, the soil will not meet the requirements to grow the seedlings and the seedlings will not survive for their intended use.

**FY24 \$9,500**

Purchase soil media to grow containerized seedlings at the Forest Regeneration Center and Forest Tree Improvement Center. Soil media is needed to grow seedlings for conservation plantings such as wetland restoration and reforestation projects. Landowners with challenging planting sites request container seedlings and without the soil media, OFS would not be able to provide them.

**FY 24- \$15,000**

Purchase of tree seedling containers for FRC and FTIC. Container cells and trays will be used to grow seedlings for conservation plantings such as wetland restoration and forest mitigation sites. Container seedlings are requested by customers who face more challenges on their planting sites. Without our containerized seedling options, these customers would have failure with their conservation plantings.

**FY24 - \$14,000**

Aerial spray pesticide application to the seed production pine tree orchards. OFS needs to spray the cone crop in our genetically improved pine tree orchards. This year there was a noticeable decrease in embryotic-material filled seed in the cones collected at the orchards. This is a result of the presence of cone worms/seed insects. Aerial application of pesticide spray to the orchards will control these pests (cone worms/seed bugs). **Justification:** Without this purchase, there will be a continued decline in the production of genetically-improved seed.

**FY24 - \$9,000**

Equipment Rental for Forest Tree Improvement Center. Rent articulating and tracks boom lifts to collect pinecones at the Forest Tree Improvement Center. Seed collection is required to grow conservation seedlings and conduct genetic testing. **Justification:** Without the lifts, seed collection from the seed orchard would not be possible.

**FY 23- \$10,000**

Replace existing sewer line between the Forest Regeneration Center office building and its septic tank. The existing line is over 30 years old and has failed in multiple places, causing dips in the line and regular sewage backups. **Justification:** Without a new sewer line, the office will not have a way to dispose of sewage.

**FY24 - \$24,000**

Local & Long-Distance Telephone service for FRC, FTIC, and Community Fire Offices necessary for communication to the public and governmental agencies. **Justification:** required for continuity in communication of operations at these office complexes.

**FY24 - \$42,000**

Electrical Service for Community Fire, FRC and FTIC offices located in Goldsby and Idabel. **Justification:** Necessary for continuity of operations at these office complexes.

**FY24 - \$12,000**

Propane for FRC and Community Fire Headquarters office & FTIC in Idabel. **Justification:** Necessary for continuity of operations at office complexes.

**FY24 - \$10,000**

Oklahoma Tax Commission for Titles and Tire Fee associated with the Firefighter Property Program. **Justification:** OFS cannot transfer ownership of these vehicles to fire departments without a title. These vehicles are converted to firefighting equipment by the receiving fire department and then used to protect the lives and property of the citizens of Oklahoma. Purchase firefighting equipment and clothing for resale to Rural Fire Departments through the Revolving Equipment Fund. This program allows firefighters to buy equipment and personal protective equipment at a reduced cost. **Justification:** without this approval and this program, rural fire department costs to purchase necessary equipment and supplies would increase.

**FY 24- \$20,000**

Phone/internet for the Community Fire, FRC and FTIC. **Justification:** Without phone service, FRC and Rural Fire would not be able to communicate with landowners and fire coordinators, which would significantly decrease customer service and service to the public.

**FY24 - \$7,000**

Postage for meter at FRC and Community Fire Headquarters. **Justification:** required to send information via USPS to customers.

**FY24 - \$19,000**

Electric, phone/internet, utilities (Propane, Natural Gas, Water, Trash) for the NE Area's Jay District Office, Rose Tower, Area HQ Complex, and Sallisaw District Office. **Justification:** Necessary expenditure to maintain emergency response radio communications for the NE Area.

**FY24- \$50,000**

The NE Area needs the above amount for Equipment & repair of mowers, dozers, trailers, & office buildings. During fire season, the NE area needs this money when our dozers break down to continue fighting fire. This money will also go toward the upkeep of our lawnmowers, trailers, and office buildings at (3) locations. Maintenance for Tahlequah, Sallisaw, & Jay, Oklahoma. **Justification:** Without this money, we will be unable to fight fire and keep our equipment in good working order.

**FY24 - \$50,000**

Purchase firefighting personal protective equipment for OFS employees from the Department of Defense E-Mall. **Justification:** required to supply OFS firefighters with mandatory personal protective equipment (PPE) and other equipment through.

**FY24 - \$150,000**

For use of P-Cards to repair firefighting equipment including but not limited to dozers, Bambi buckets, UTVs and slip-on firefighting units. These purchases will be for repairs more than \$5,000 when a piece of equipment has significant issues and requires Board approval.

**Justification:** This will allow the equipment to be repaired quickly after completion of the bidding process and back in service for fire management activities.

**FY24 - \$150,000**

For use of Comdata Cards to repair firefighting equipment including but not limited to transports, engines, pickups, and other rolling stock. These purchases will be for repairs more than \$5000 when a piece of equipment has significant issues and requires Board approval.

**Justification:** This will allow the equipment to be repaired quickly after completion of the bidding process and back in service for fire management activities.

**FY24 - \$25,000**

Uniforms for OFS employees. OFS employees are required for recognition by the public.

Full allotments are purchased for new employees. **Justification:** Existing employees are provided an annual allotment of uniforms to replace worn and old uniforms. OFS employees provide a vital public safety function, requiring public recognition of our personnel. (Federal & State Funds)

**FY24- \$11,250**

Land Lease-Commercial BB Office & Land Lease-land only SE Complex **Justification:**

This is the space where office is located & land behind office.

**FY24- \$13,500**

Electricity - SE Area office; SE Area complex; Antler's complex; Carter Tower complex; Sobol Tower repeater; Tom Tower repeater; Security lights. **Justification:** Necessary expenditure to maintain emergency response radio communications for the SE Area.

**FY24- \$7,700**

Telecommunications-phone/internet/Long Distance service for SE Area Complex; Antlers Complex; and cell phone services for SE Area. **Justification:** Necessary continuity of operations & to maintain emergency response for the SE Area

**FY24- \$7,600**

Utility-water, sewer, propane, natural gas, trash service for SE Area complex; Antler's complex; Carter Tower complex; **Justification:** Necessary continuity of operations & to maintain emergency response for the SE Area

**FY24- \$100,000**

Equipment Repair - maintenance and repair of all SE Area equipment including mowers, dozers, trailers, tractors, chain saws, blowers, and building maintenance/repair at all SE Area facilities; **Justification:** This will allow the equipment to be repaired quickly after completion of the bidding process and back in service for fire management activities.

**FY24- \$100,000**

Radio Repair - radio repair for any handheld radio, battery, or mobile radio used by SE Area personnel for all firefighting, emergency, and prescribed burn services; **Justification:** Necessary expenditure to maintain emergency response radio communications for the SE Area. This will allow the equipment to be repaired quickly after completion of the bidding process and back in service for fire management activities.

**Laboratory Services****FY23 - \$13,117.20 Service Contract**

Purchase of one year service maintenance contract renewal for dual HPLC System LC 1260 Infinity II dual system. (To be purchased by Consumer Protection Services).

**Market Development Services**

FY2023 – Healthy Food Financing Grant – Jackson Angus Beef - \$10,000.00

FY2023 – 32 hotel rooms x 2 days (at the state per diem rate) - Ag in the Classroom Teacher Road Trip - \$6,272.00

FY2023 – Purchase of Oklahoma Grown Farmers Market bags for OK Grown Markets – cost share basis - \$23,000.00

FY2023 – Simple Snacks with Farm Fresh Food videos – videographer – Funded entirely by Specialty Crop Block Grant Funding - \$20,000.00

FY2023 – Wine Consumer Segmentation Research Project – TasteAdvisor – Funded entirely by Viticulture and Enology Revolving Grant Funding - \$14,000.00

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**APPROVAL OF CASES**

ON THIS 25<sup>th</sup> day of January 2023, the Office of General Counsel of the Oklahoma Department of Agriculture, Food, and Forestry brought for consideration before the State Board of Agriculture those certain cases summarized on Exhibit A hereto which cases have been resolved by stipulation or consent order. The attached Exhibit A summarizes each action by case name, case number, case type and amount received as a stipulated administrative penalty or by consent order.

**ACCORDINGLY, IT IS THEREFORE ORDERED** by the State Board of Agriculture that the resolution of each of the cases summarized on Exhibit A hereto is hereby approved in all aspects; that this order shall be deemed the final agency order for each such case; and that the penalty imposed by each such stipulation or consent order is hereby adopted and incorporated herein by reference to Exhibit A hereto.

WITNESS My Hand and Official Seal this 25<sup>th</sup> day of January 2023.

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Blayne Arthur  
President  
State Board of Agriculture



**Exhibit A**  
**Board of Agriculture**  
**January 25, 2023**

**Cases Resolved by Stipulation**

**Consumer Protection Services**

<b><u>Name</u></b>	<b><u>File No.</u></b>	<b><u>Division</u></b>	<b><u>Amount</u></b>
Ag Solutions, LLC	OGC-21-141	CPS	\$1,000.00
Arnett Grain & Feed	OGC-21-886	CPS	\$500.00
Central Custom Ag Aviation	OGC-21-754	CPS	\$1,500.00
Landmark Outdoor Service	OGC-21-812	CPS	\$500.00
Orkin, LLC	OGC-22-506	CPS	\$500.00
Rowdy Lawns	OGC-21-810	CPS	\$250.00
Texoma Ag, LLC	OGC-22-516	CPS	\$1,000.00
Martin Williams	OGC-21-752	CPS	\$750.00

**Cases Resolved by Consent Order**

**Consumer Protection Services**

<b><u>Name</u></b>	<b><u>File No.</u></b>	<b><u>Division</u></b>	<b><u>Amount</u></b>
Deterding Aerial, LLC	OGC-20-693	CPS	\$500.00
Eckles Aircraft, LLC	OGC-20-821	CPS	\$500.00
Escott Aerial Spraying	OGC-20-704	CPS	\$3,000.00
Escott Aerial Spraying	OGC-20-668	CPS	
Escott Aerial Spraying	OGC-20-695	CPS	
Escott Aerial Spraying	OGC-21-620	CPS	
Escott Aerial Spraying	OGC-21-657	CPS	

**OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. AG SOLUTIONS LLC**

**Case File No. OGC-21-141**

**Ag Solutions LLC  
P.O. Box 729  
Satanta, KS 67870**

**Summary of Facts:** Off target drift complaint and off-label application.

**Statute or Rule Violation:** 2 O.S. § 3-86 A(4).

**Proposed Administrative Penalty:** The penalty was assessed at \$1000

**Deviations:** Stipulation was signed and paid in full.

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL

COMPLAINANT,

v.

Ag Solutions LLC.  
P.O. Box 729  
Satanta, KS 67870

RESPONDENT.

Case No: OGC-21-141

RECEIVED  
NOV 21 2022  
OFFICE OF GENERAL COUNSEL  
OKLA. DEPT OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Thousand Dollars (\$1000.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Liza Dyer / Administrative Assistant

Printed Name and Title:

Date: 11/10/2022

gina, here is your  
copy. I have put  
the live checks  
in the safe

THANKS  
JOYD

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC-21-141**

**Ag Solutions LLC )  
1301 Chippewa St. )  
Satanta, KS 67870 )  
c/o OK Secretary of State )  
421 NW 13<sup>th</sup> Street, Ste. 210 )  
OKC OK 73103 )**

**RESPONDENT. )**

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel (“OGC”) of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 12<sup>th</sup> day of January 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

---

<sup>1</sup> 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 pre-filed 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.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.

5. Upon request of either party, Prehearing Conferences shall be on the record.

6. 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 ALJ by modifying the order for good cause.

7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.

9. **The hearing date will be determined at the Prehearing Conference.**

10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.

11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. 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 scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide application, located at Santana, Kansas.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about 16<sup>th</sup> day of March 2021, the Consumer Protective Services Division of the Department conducted a consumer complaint investigation at Route 1 Box 48 in Tyrone, OK.

19. During this investigation it was found that this residence is adjacent to the west of the irrigated crop field you aerially sprayed in the NE ¼ of section 33-6N-19E.

20. According to your application records you applied Defy- LV-6, Rifle Herbicide, and Zaltus XS to this field on March 11, 2021, with a 7 mph north wind.

21. Mesonet data shows the wind speeds being 9-11 mph out of the northeast during the time of your application. This data shows that the wind was blowing towards the complainant's residence during your application.

22. The Defy- LV6 label states to only apply the product if there are no sensitive areas, such as a residence area, within 250 feet down wind. The complainant's residence is within 250 feet of your application area.

23. The Rifle Herbicide label states to not apply the product within 50 feet of wells. The crop field irrigation well was in your application area, and the record of your flight pattern indicates that you did not leave a 50 feet buffer around this well.

24. According to our investigation your application violated the two product labels in violation of Oklahoma Combined Pesticide Law & Rules: 2 O.S. § 3-86 (A)(4).

#### **ALLEGED CONCLUSIONS OF LAW**

25. Based upon the application of the above law to the aforementioned facts, you are in violation of Oklahoma Statutes, specifically 2 O.S. §3-86(A)(4) which states:

- "It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: A person has used a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained from the Board."

### **ATTORNEY CONFERENCES**

26. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.
27. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
28. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

29. Enforcement proceedings may include but are not limited to:
  - a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and
  - d.) Civil actions.
30. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.



31. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

32. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

33. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

### **ENFORCEMENT OF JUDGMENTS**

34. 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.*

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

35. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

36. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

37. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

**STIPULATION**

38. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of One Thousand Dollars (\$1000.00).

39. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 18<sup>TH</sup> day of November 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

\_\_\_\_\_  
Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Kambi Maddy, OBA # 13873  
Brady Robison, OBA # 33600\*  
Richard D. Herren, OBA # 13829  
Assistant General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 18th day of November 2022, a true and correct copy of the  
forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**Ag Solutions LLC.  
1301 Chippewa St.  
Satanta, KS 67870  
c/o OK Secretary of State  
421 NW 13<sup>th</sup> Street, Ste. 210  
OKC OK 73103**

  
Brady Robison

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL**

**COMPLAINANT,**

**v.**

**Ag Solutions LLC.  
1301 Chippewa St.  
Satanta, KS 67870  
c/o OK Secretary of State  
421 NW 13<sup>th</sup> Street, Ste. 210  
OKC OK 73103**

**RESPONDENT.**

**Case No: OGC-21-141**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Thousand Dollars (\$1000.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

**RESPONDENT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title:

Date: \_\_\_\_\_

**OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. ARNETT GRAIN & FEED**

**Case File No. OGC-21-886**

**ARNETT GRAIN & FEED  
P.O. BOX 1567  
SHAWNEE, OK 74802**

**Summary of Facts:** Sold restricted use pesticides to a non-certified person

**Statute or Rule Violation:** 2 O.S. § 3- 86 (C) 5.

**Proposed Administrative Penalty:** The penalty was assessed at \$500

**Deviations:** Stipulation was signed and paid in full.

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**  
DEC 28 2022  
STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL

COMPLAINANT,

v.

ARNETT GRAIN & FEED  
P.O. BOX 1567  
SHAWNEE, OK 74802

RESPONDENT.

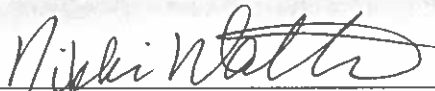
Case No: OGC-21-886

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Five Hundred Dollars (\$500.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

  
Signature

Nikki Watters, Assistant Secretary  
Printed Name and Title: Treasurer

Date: 12/20/2022

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC-21-886**

**ARNETT GRAIN & FEED )  
P.O. BOX 1567 )  
SHAWNEE, OK 74802 )**

**RESPONDENT. )**

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on the 8<sup>th</sup> day of December 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

---

<sup>1</sup> 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 pre-filed 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. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. 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 ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. 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 scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.



### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial restricted use pesticides sales, located at Shawnee, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about 22<sup>nd</sup> day of December, the Consumer Protective Services Division of the Department conducted sales records inspection at your Arnett, OK facility.

19. During the records check at this facility, inspectors noted that you had made a sale of Grazon P+D to Jim Caldwell. After checking records, it was determined that Mr. Caldwell is not a private applicator nor is he certified in the agricultural plant category.

20. Restricted use pesticide products can only be sold to individuals who hold a current private applicator certification or to individuals who hold a current certified applicator certification in the category for which the restricted use pesticide product can be applied.

21. You are in violation of O.S. §3-86(C)(5).

### **ALLEGED CONCLUSIONS OF LAW**

22. Based upon the application of the above law to the aforementioned facts, you are in violation of Oklahoma Statute 2 O.S. §3-86(C)(5) which states:

- “C. It shall be unlawful for any person, whether or not a person holds a permit as a manufacturer, registrant, or distributor, to distribute, sell, or offer for sale within this state, deliver for transportation or transport in intrastate or interstate commerce, or to violate any part of this subarticle or rules promulgated by the Board. Any pesticide registration, permit, certificate, or identification issued may be suspended, canceled, revoked, or refused reissue by the Board after a notice and opportunity to be heard has been given to the holder of the registration, permit, certificate, or identification. Notice shall be given to the holder of the registration, permit, certificate, or identification by registered or certified mail at least ten (10) days prior to the date of hearing. The suspension, cancellation, revocation, or refusal to reissue any registration, permit, certificate or identification may be made if the Board finds that: 5. That any person intends to or has distributed, sold, stored, or used any pesticide or device in a manner inconsistent with its labeling.”

### **ATTORNEY CONFERENCES**

23. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

24. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.

25. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

26. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and
  - d.) Civil actions.
27. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
28. Any person, holder or non-holder of a valid license violating any of the provisions of 2 O.S. §3-86(A)(1)-(22) shall be guilty of a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00), imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or both.
29. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.
30. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

31. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

### **ENFORCEMENT OF JUDGMENTS**

32. 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.*

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

33. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

34. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

35. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

### STIPULATION

36. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Five Hundred Dollars (\$500.00)**.

37. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 1<sup>ST</sup> day of November, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Kambi Maddy, OBA # 13873  
Brady Robison, OBA # 33600  
Richard D. Herren, OBA # 13829  
Assistants General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 1<sup>st</sup> day of November 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

ARNETT GRAIN & FEED  
P.O. BOX 1567  
SHAWNEE, OK 74802

Brady Robison  
Brady Robison



**OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. CENTRAL CUSTOM AG AVIATION**

**Case File No. OGC-22-517**

**Central Custom Ag Aviation**  
**3195 CR1140**  
**Hydro, OK 73048**

**Summary of Facts:** Off target drift complaint and off-label application.

**Statute or Rule Violation:** 2 O.S. § 3-86(A)(3); 2 O.S. § 3-86(A)(4)

**Proposed Administrative Penalty:** The penalty was assessed at \$1500

**Deviations:** Stipulation was signed and paid in full.

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison



BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL

COMPLAINANT,

v.

CENTRAL CUSTOM AG AVIATION  
3195 CR 1140  
HYDRO, OK 73048

RESPONDENT.

RECEIVED

NOV 21 2022

OFFICE OF GENERAL COUNSEL  
STATE DEPT OF AGRICULTURE  
Case No: OGC-21-754

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Five Hundred Dollars (\$1500.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Jeff Elmore, President  
Printed Name and Title:

Date:

11/7/2022

Bina, here is your  
copy. I have put  
the live checks  
in the safe

THANKS  
JOYD

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC-21-754**

**CENTRAL CUSTOM AG AVIATION )  
3195 CR 1140 )  
HYDRO, OK 73048 )**

**RESPONDENT. )**

**AMENDED NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 8<sup>th</sup> day of December** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

---

<sup>1</sup> 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 pre-filed 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. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. 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 ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. 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 scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide applications, located at Hydro, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about 25<sup>th</sup> day of August 2021, the Consumer Protective Services Division of the Department conducted a consumer complaint of an aerial application located at the east side of section 23-13N-8W.

19. The complainant stated that while he was driving down the road with his truck windows open a spray plane flew over and sprayed his truck and person.

20. According to your application records you applied Ag Saver Glyphosate to the field on August 25, 2021.

21. swab sample was taken from the complainant's vehicle, and glyphosate was recovered in the analysis.

22. A vegetative sample was taken from the field that was sprayed, and Glyphosate was recovered in the analysis.

23. According to our investigation your application resulted in and off-target movement/drift onto the complainant's property and person.

24. Allowing a pesticide to contact a person and drift off target are violations of the Oklahoma Combined Pesticide Law and Rules: 2 O.S. § 3-86(A)(3); 2 O.S. § 3-86(A)(4).

#### **ALLEGED CONCLUSIONS OF LAW**

25. Based upon the application of the above law to the aforementioned facts, you are in violation of 2 O.S. § 3-86(A)(3).

- **2 O.S. §3-86(A)(3):** "A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: 3. A person has operated in a negligent manner, thereby causing a pesticide to drift off-target."

#### **ATTORNEY CONFERENCES**

26. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

27. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.

28. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

29. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

30. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

31. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

32. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

33. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

### **ENFORCEMENT OF JUDGMENTS**

34. 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.*

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

35. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

36. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

37. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

**STIPULATION**

38. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Five Hundred Dollars (\$1500.00)**.

39. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 31<sup>ST</sup> day of October, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*


Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Kambi Maddy, OBA # 13873  
Brady Robison, OBA # 33600  
Richard D. Herren, OBA # 13829  
Assistants General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789



**CERTIFICATE OF MAILING**

This is to certify that on this 31<sup>st</sup> day of October, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

CENTRAL CUSTOM AG AVIATION  
3195 CR 1140  
HYDRO, OK 73048

  
\_\_\_\_\_  
Brady Robison

**THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL**

v.

**RESPONDENT.**

## STIPULATION

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

Signature

Printed Name and Title:

Date: \_\_\_\_\_

**OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. LANDMARK OUTDOOR SERVICES**

**Case File No. OGC-21-812**

**Landmark Outdoor Services**  
**10901 E. 11th St.**  
**Tulsa, OK 74128**

**Summary of Facts:** Operating and advertising without a valid applicator and business license

**Statute or Rule Violation:** 2 O.S. § 3-82 A(1); 2 O.S. § 3-86 A(15); 2 O.S. § 3-86 A(16).

**Proposed Administrative Penalty:** The penalty was assessed at \$500

**Deviations:** Stipulation was signed and paid in full.

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

RECEIVED

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

DEC 12 2022  
#500-CK 22188  
ODAFF FINANCE  
46532

THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL

COMPLAINANT,

v.

LANDMARK OUTDOOR SERVICES  
10901 E. 11TH ST.  
TULSA, OK 74128

RESPONDENT.

Case No: OGC-21-812

404-41

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Five Hundred Dollars (\$500.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT

Signature

Printed Name and Title:

Date:

Dec. 9, 2022

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC-21-812**

**LANDMARK OUTDOOR SERVICES )  
10901 E. 11TH ST. )  
TULSA, OK 74128 )**

**RESPONDENT. )**

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel (“OGC”) of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 12<sup>th</sup> day of January** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

---

<sup>1</sup> 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 pre-filed 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. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. 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 ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. 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 scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide/herbicide applications, located at Tulsa, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about 16<sup>th</sup> day of September 2021, the Consumer Protective Services Division of the Department conducted a routine use inspection of your applicator/employee, Ronald Hope, who was beginning to apply a residential turf application at the Enclave at Addison Creek Addition in Tulsa, OK. Ronald, at the time of the application, was not certified to make commercial applications.

19. Additionally, your business license had expired in December 2020.

20. Operating commercially without a license and certification is a violation of the Oklahoma Combined Pesticide Law & Rules: 2 O.S. § 3-82 A(1); 2 O.S. § 3-86 A(15); 2 O.S. § 3-86 A(16).

### **ALLEGED CONCLUSIONS OF LAW**

21. Based upon the application of the above law to the aforementioned facts you are in violation of Oklahoma Statutes specifically 2 O.S. §3-86(A)(1), 2 O.S. §3-86(A)(15) and 2 O.S. (A)(16).

- **2 O.S. §3-86(A)(1):** “A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: 1. A person has made misrepresentations for the purpose of defrauding, or has not satisfactorily performed, without proper cause, any contract into which the person entered.”
- **2 O.S. §3-86(A)(15):** “15. Any person to act, operate, do business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged.”
- **2 O.S. §3-86(A)(16):** “16. Any persons to be employed or represent themselves as certified applicators or service technicians unless they have met the certification standards prescribed by the Board and obtained valid certificates or identifications issued by the Board for the categories for which the persons are to be employed or supervised.”



### **ATTORNEY CONFERENCES**

22. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.
23. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
24. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

25. Enforcement proceedings may include but are not limited to:
  - a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and
  - d.) Civil actions.
26. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
27. Any person, holder or non-holder of a valid license violating any of the provisions of 2 O.S. §3-86(A)(1)-(22) shall be guilty of a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00),

imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or both.

28. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

29. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

#### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

30. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

#### **ENFORCEMENT OF JUDGMENTS**

31. 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.*

#### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

32. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

33. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

34. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

### STIPULATION

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Five Hundred Dollars (\$500.00)**.

36. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 1<sup>ST</sup> day of November, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

---

Teena G. Ginter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Kambi Maddy, OBA # 13873  
Brady Robison, OBA # 33600  
Richard D. Herren, OBA # 13829  
Assistants General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 9<sup>th</sup> day of December 2022, a true and correct copy of the forgoing instrument was mailed, via email to [erika@landmarkservicegroup.com](mailto:erika@landmarkservicegroup.com), Return Receipt Requested, as follows:

LANDMARK OUTDOOR SERVICES  
10901 E. 11TH ST.  
TULSA, OK 74128

  
Brady Robison



**OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. ORKIN**

**Case File No. OGC-22-506**

**ORKIN LLC  
3620 S. MOULTON DR.  
OKLAHOMA CITY, OK 73179**

**Summary of Facts:** Company truck did not have the proper license displayed on the vehicle

**Statute or Rule Violation:** O.A.C. 35:30-17-15

**Proposed Administrative Penalty:** The penalty was assessed at \$500

**Deviations:** Stipulation was signed and paid in full.

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**

DEC 06 2022

STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL

COMPLAINANT,

v.

ORKIN LLC  
3620 S. MOULTON DR.  
OKLAHOMA CITY, OK 73179

RESPONDENT.

Case No: OGC-22-506

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of Five Hundred Dollars (\$500.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name and Title:

Date: 1/3/23

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC-22-506**

**ORKIN LLC )  
3620 S. MOULTON DR. )  
OKLAHOMA CITY, OK 73179 )**

**RESPONDENT. )**

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel (“OGC”) of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on 12<sup>th</sup> day of January, 2023 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

---

<sup>1</sup> 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 pre-filed 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. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. 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 ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. 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 scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide applications, located at Oklahoma City, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about the 19<sup>th</sup> day of July, 2022, the Consumer Protective Services Division of the Department conducted a use inspection.

19. Upon inspection of your employee/technician Monty Franklin, our inspector discovered that your vehicle did not have your company license number affixed as required by ODAFF Rules.

20. ODAFF requires that both sides of a commercial application vehicle be marked with the company's name and license number with two (2) inch or larger letters/numbers.

### **ALLEGED CONCLUSIONS OF LAW**

21. Based upon the application of the above law to the aforementioned facts, not having your vehicle properly marked with the company's license number is a violation of 35:30-17-15 of the Oklahoma Administrative Code. This code states:

- "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."

### **ATTORNEY CONFERENCES**

22. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

23. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.

24. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

25. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

26. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

27. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

28. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

#### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

29. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

#### **ENFORCEMENT OF JUDGMENTS**

30. 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.*

#### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

31. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

32. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

33. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

**STIPULATION**

34. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Five Hundred Dollars (\$500.00).

35. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 6<sup>TH</sup> day of October, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

\_\_\_\_\_  
Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Kambi Maddy, OBA # 13873  
Brady Robison, OBA # 33600\*  
Richard D. Herren, OBA # 13829  
Assistants General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 6<sup>th</sup> day of October 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

ORKIN LLC  
3620 S. MOULTON DR.  
OKLAHOMA CITY, OK 73179

  
\_\_\_\_\_  
Brady Robison



**OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. ROWDY LAWNS**

**Case File No. OGC-21-810**

**ROWDY LAWNS  
6300 S. CHOCTAW RD  
CHOCTAW, OK 73020**

**Summary of Facts:** Uncertified commercial pesticide application.

**Statute or Rule Violation:** O.A.C 35:30-17-25 (B).

**Proposed Administrative Penalty:** The penalty was assessed at \$250

**Deviations:** Stipulation was signed and paid in full.

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison



**FILED**  
NOV 30 2022  
STATE BOARD OF AGRICULTURE

**Case No: OGC-21-810**

## Page 8 of 8

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC-21-810**

**ROWDY LAWNS )  
6300 S. CHOCTAW RD )  
CHOCTAW, OK 73020 )**

**RESPONDENT. )**

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel (“OGC”) of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 8<sup>TH</sup> day of December 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

---

<sup>1</sup> 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 pre-filed 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. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. 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 ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. 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 scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide applications, located at Choctaw, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about 23<sup>rd</sup> day of September 2021, the Consumer Protective Services Division of the Department conducted a routine use inspection of your applicator at 1024 NW 10<sup>th</sup> Street in Moore, OK.

19. During this investigation/inspection it was discovered that your employee, Bradley Jones, was not certified to make commercial pesticide applications. A certified applicator must be on site to supervise a non-certified tech during the commercial application.

20. Failing to have a certified applicator supervise a non-certified applicator is a violation of the Oklahoma Administrative Code 35:30-17-25(b).

### **ALLEGED CONCLUSIONS OF LAW**

21. Based upon the application of the above law to the aforementioned facts, you are in violation of O.A.C. 35:30-17-25 which states:

- “A certified applicator shall be on site to supervise any pesticide application by a non-service technician.”

### **ATTORNEY CONFERENCES**

22. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

23. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.

24. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

25. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

26. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have

the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

27. Any person, holder or non-holder of a valid license violating any of the provisions of 2 O.S. §3-86 shall be guilty of a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00), imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or both.

28. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

29. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

#### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

30. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

#### **ENFORCEMENT OF JUDGMENTS**

31. 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.*

#### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

32. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

33. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

34. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

**STIPULATION**

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Two Hundred and Fifty Dollars (\$250.00)**.

36. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 1<sup>ST</sup> day of November 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

\_\_\_\_\_  
Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Kambi Maddy, OBA # 13873  
Brady Robison, OBA # 33600  
Richard D. Herren, OBA # 13829  
Assistant General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 1st day of November 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

ROWDY LAWNS  
6300 S. CHOCTAW RD  
CHOCTAW, OK 73020

  
Brady Robison





**OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. TEXHOMA AG LLC**

**Case File No. OGC-22-516**

**TEXOMA AG LLC  
1928 BISHOP RD  
BOWIE, TX 76230**

**Summary of Facts:** Off-target Drift Complaint and advertising without a valid business license

**Statute or Rule Violation:** 2 O.S. § 3-86 A (3); 2 O.S. § 3-86 A (15)

**Proposed Administrative Penalty:** The penalty was assessed at \$1000

**Deviations:** Stipulation was signed and paid in full.

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL

COMPLAINANT,

v.

TEXOMA AG LLC  
1928 BISHOP RD  
BOWIE, TX 76230

RESPONDENT.

Case No: OGC-22-516

**FILED**  
DEC 06 2022  
STATE BOARD OF AGRICULTURE

STIPULATION

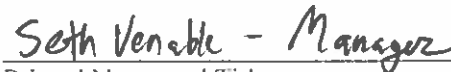
Respondent accepts and stipulates to the proposed administrative penalty or fine of One Thousand Dollars (\$1000.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:



Signature



Printed Name and Title:

Date: 12/2/2022

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC-22-516**

**TEXOMA AG LLC )  
1928 BISHOP RD )  
BOWIE, TX 76230 )**

**RESPONDENT. )**

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel (“OGC”) of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 12<sup>th</sup> day of January 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

---

<sup>1</sup> 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 pre-filed 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. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. 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 ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. 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 scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide applications, located at Bowie, TX.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about the 29<sup>th</sup> day of June 2022, the Consumer Protective Services Division of the Department conducted a consumer complaint investigation.

19. Our inspector visited a grass pasture being three quarter sections in section 28-1N-12W in Comanche County, OK. Your company performed an aerial application of Dicamba and Glyphosate to a cotton field in the SW ¼ of section 28-1N-12W.

20. Our inspector observed herbicide effects on the grass adjacent to the north and to the east of your application area.

21. A vegetative sample was taken from the grass pasture, and a trace amount of 2,4-D, 3.65 ppm of Dicamba, and 50.8 ppm of Glyphosate were detected.

22. A vegetative sample was taken from your application area, and 7.15 ppm of Dicamba and 94.1 ppm of Glyphosate were detected.

23. According to our investigation your application resulted in an off-target movement/drift onto the grass pasture adjacent to your application area

24. Additionally, your company is advertising a business location in Grandfield, OK, and according to ODAFF's records Texoma Ag LLC does not have a license for the Grandfield, OK location.

### **ALLEGED CONCLUSIONS OF LAW**

25. Based upon the application of the above law to the aforementioned facts, applying pesticide in a manner that allows an off-target drift and operating without a current business license for each location are violations of Oklahoma Statutes.

26. 2 O.S. §3-86(A)(3) states:

- “(A) It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: (3) A person has operated in a negligent manner, thereby causing a pesticide to drift off-target.”

27. 2 O.S. §3-86(A)(15) states: “(15) Any person to act, operate, do business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged.”

#### **ATTORNEY CONFERENCES**

28. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.
29. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
30. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

#### **ENFORCEMENT PROCEEDINGS**

31. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and
  - d.) Civil actions.
32. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.



33. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

34. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

#### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

35. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

#### **ENFORCEMENT OF JUDGMENTS**

36. 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.*

#### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

37. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

38. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

39. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

### STIPULATION

40. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of One Thousand Dollars (\$1000.00).

41. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 6<sup>TH</sup> day of October, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

---

Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Kambi Maddy, OBA # 13873  
Brady Robison, OBA # 33600\*  
Richard D. Herren, OBA # 13829  
Assistants General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 6<sup>th</sup> day of October, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

TEXOMA AG LLC  
1928 BISHOP RD  
BOWIE, TX 76230

*Brady Robison*  
Brady Robison

**THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL**

**V.**

**RESPONDENT.**

## STIPULATION

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

Date: \_\_\_\_\_

**OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. MARTIN WILLIAMS**

**Case File No. OGC-21-752**

**Martin Williams  
12250 X Road  
Red Rock, OK 74651**

**Summary of Facts:** Off target drift complaint and off-label application.

**Statute or Rule Violation:** : 2 O.S. § 3-86 A (3); 2 O.S. § 3-86 A (4); 2 O.S. § 3-86 A (5);  
O.A.C 35:30-17-21 (D)

**Proposed Administrative Penalty:** The penalty was assessed at \$750

**Deviations:** Stipulation was signed and paid in full.

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**

NOV 28 2022

AGRICULTURE

THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL

COMPLAINANT,

v.

Case No: OGC-21-752

MARTIN WILLIAMS  
12250 X ROAD  
RED ROCK, OK 74651

RESPONDENT.

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Seven Hundred and Fifty Dollars (\$750.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:



Signature

Martin Williams

Printed Name and Title:

Date:

11-17-22

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC-21-752**

**Martin Williams )  
12250 X Road )  
Red Rock, OK 74651 )**

**RESPONDENT. )**

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel (“OGC”) of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 8<sup>th</sup> day of December 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

---

<sup>1</sup> 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 pre-filed 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. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. 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 ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. 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 scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.



### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide application, located at Red Rock, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about the 29<sup>th</sup> day of July 2021, the Consumer Protection Services Division of the Department conducted a consumer drift complaint located at NW ¼ of section 15-23N-1E. Your Dicamba tolerant soybean field is adjacent to the west of the complainant's nontolerant soybeans.

19. Our inspectors observed severe Dicamba effects on the west side of the complainant's field. These effects lessened in severity as they progress east in the field.

20. You informed our inspectors that you applied Xtendimax to your field around June 24, 2021.

21. A vegetative sample of soybeans was taken along the west side of complainant's field, and Dicamba was recovered in the analysis.

22. A vegetative sample was taken along the east side of your field, and Dicamba was recovered in the analysis.

23. Additionally, On August 3, 2021, you were sent an official request for application records. As of the date of the initial letter of warning, you had not provided those records.

24. ODAFF has you on file as being a current private applicator. Xtendimax is a restricted use pesticide. ODAFF's Law & Rules, and the product label require you to keep application records. As an applicator you are required to provide those records to ODAFF upon request.

25. Allowing a pesticide to drift off-target, and not providing application records are violations of the Oklahoma Combined Pesticide Law & Rules: 2 O.S. § 3-86 (A)(3); 2 O.S. § 3-86 (A)(5); O.A.C 35:30-17-21(d).

#### **ALLEGED CONCLUSIONS OF LAW**

26. Based upon the application of the above law to the aforementioned facts, your application resulted in a drift/off target movement of herbicide onto the field adjacent to the east of your application area and have not supplied records when requested, both in violation of Oklahoma Rule and Statute.

- **2 O.S. §3-86(A)(3):** “(A) It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension,

cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: 3. A person has operated in a negligent manner, thereby causing a pesticide to drift off-target.”

- **2 O.S. § 3-86 (A)(5):** “5. Failure or refusal to furnish the Board, upon request, true information regarding methods, pesticides, and safety measures used, work performed, or other information required by the Board, or for making any false statement or representation in the person's application for issuance or renewal of a permit.”
- **O.A.C 35:30-17-21(d):** “(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.”

### **ATTORNEY CONFERENCES**

27. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

28. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.

29. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

30. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;

- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

31. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

32. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

33. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

#### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

34. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

#### **ENFORCEMENT OF JUDGMENTS**

35. 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.*

**INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

36. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.
37. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.
38. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

### STIPULATION

39. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Seven Hundred and Fifty Dollars (\$750.00)**.

40. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 31<sup>ST</sup> day of October, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Kambi Maddy, OBA # 13873  
Brady Robison, OBA # 33600  
Richard D. Herren, OBA # 13829  
Assistants General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 31<sup>st</sup> day of October, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

MARTIN WILLIAMS  
12250 X ROAD  
RED ROCK, OK 74651

*Brady Robison*  
Brady Robison





**OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. DETERDING AERIAL**

**Case File No. OGC-20-693**

**Deterding Aerial**  
**701 W. Cedar Dr.**  
**Public Airport, West Hangar**  
**Pond Creek, OK 73766**

**Summary of Facts:** Operating in a negligent manner by applying pesticides off label in a wind that allowed for off-target drift.

**Statute or Rule Violation:** 2 O.S. § 3-86 A(3).

**Proposed Administrative Penalty:** The penalty was originally assessed at \$1000

**Deviations:** This was subject to a settlement agreement and consent order. The Respondent was worried about potential civil liabilities and requested that the stipulation be lowered. This case is over two years old, and it was appropriate to do so. The penalty was ultimately consented to at \$500.

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC-20-693**

**DETERDING AERIAL )  
701 W. CEDAR DR. )  
PUBLIC AIRPORT, WEST HANGAR )  
POND CREEK, OK 73766 )**

**RESPONDENT. )**

**SETTLEMENT AGREEMENT AND CONSENT ORDER**

**PARTIES**

1. This Settlement Agreement and Consent Order (the "Agreement") is between the Oklahoma Department of Agriculture, Food, And Forestry (the "Department") and DETERDING AERIAL (the "Respondent").

**AUTHORITY**

2. The Department has authority over this matter pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4 (A)(3).

**DEPARTMENT'S NOTICE**

3. On September 28, 2022, the Department issued an Amended Notice of Violation in Case No. OGC-20-693, ("Notice") to the Facility, which is attached hereto as Exhibit A. The Allegations of Fact and Summary of Applicable Law of that Notice are incorporated herein by reference.

**ORDER AND AGREEMENT**

4. In compromise and full settlement of this matter, respondent shall pay to the Department an administrative penalty of Five Hundred Dollars (\$500.00). Upon the execution of this agreement by both parties, payment shall immediately be made by Respondent payable to the "Oklahoma Department of Agriculture, Food, And Forestry" and mailed to the following address:  
Office of General Counsel

Oklahoma Department of Agriculture, Food, and Forestry  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298

#### **EFFECT OF THE AGREEMENT**

5. In exchange for Respondent's compliance with the terms of this Agreement, the Department agrees not to initiate any further administrative, civil, or criminal proceedings against Respondent, its officers, directors, agents, customers, servants, employees, representatives, parents, subsidiaries, successors and assigns, based or relating to the facts alleged in the Department's Amended Notice. This release shall not prevent the Department from enforcing the terms of this Agreement and does not release Respondent from liability for other unknown or undiscovered past violations or potential future violations of state or federal law. This Agreement relates only to claims within the jurisdiction of the Department and specifically does not release Respondent from actions initiated by other state or federal agencies having jurisdiction over related matters.
6. Respondent and the Department recognize there is risk and expense inherent in any litigation. Thus, the parties agree to enter into this compromise and settlement to avoid incurring any further cost and expense arising as a result of this dispute. Respondent and the Department each do not waive and each expressly reserves all of its rights in any future proceeding against it.
7. The Department does not by entering into this Agreement concede that its factual basis for initiating this Action, and violations found based upon those facts, are not true and accurate. Respondent, without admitting the truth of said factual averments and having previously contested the alleged violations in informal discussions with representatives of the Department, voluntarily waives its right to a formal evidentiary hearing to contest such factual averments. By entering into this agreement, Respondent does not admit or consent to the truth of the factual averments set forth in the Amended Notice. The Department and Respondent are avoiding further contention, including litigation of this matter, through settlement of this Action by this Agreement.

#### **NO ADMISSION.**

8. This Agreement and any proceedings taken hereunder are not intended and shall not in any event be construed as, or deemed to be, an admission or concession or evidence of any liability or any wrongdoing whatsoever on the part of any party. The parties hereto specifically disclaim and deny any liability or wrongdoing whatsoever with respect to the allegations and claims asserted against them in this action and enter into this Agreement solely to avoid the further expense, inconvenience, burden and uncertainty of litigation.

### **NON-ADMISSIBILITY.**

9. These settlement negotiations have been undertaken by the parties in good faith and for settlement purposes only, and neither this Agreement nor any evidence of negotiations hereunder, shall be offered or received in evidence in this Action, or any other action or proceeding, for any purpose other than in an action or proceeding to enforce the terms of this Agreement.

### **HEARING WAIVER**

10. Respondent hereby agrees to waive its right to a hearing and its opportunity to appeal or contest this Agreement. Respondent enters into this Agreement freely and voluntarily.

### **NOTICE**

11. Unless otherwise specified, reports, notice, or other submissions required under this Agreement shall be in writing and shall be sent to:

### **MISCELLANEOUS**

12. This Agreement may be amended only by mutual agreement of the Department and Respondent. Such amendments shall be in writing, shall have as their effective date the date on which they are signed by both parties, and shall be incorporated into this agreement.
13. The undersigned representative of the Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry agrees to propose and recommend this Agreement to the State Board of Agriculture (the "Board"). Furthermore, Respondent understands that the Office of General Counsel Representative neither possesses the legal power to bind the Board nor can the Office of General Counsel Representative promise acceptance of this Agreement by the Board. Respondent understands that it may attend the meeting of the Board but is not required to do so.
14. Payment for the administrative penalty shall be presented upon the execution of this Agreement. Such payment will be tendered upon acceptance of this Agreement by the Board at its next regularly scheduled public meeting.
15. In the event the Board accepts this Agreement, Respondent shall receive a copy of the Approval. Compliance with this Agreement shall constitute full and complete settlement.
16. In the event the Board does not approve this Agreement, then Respondent or the Department is free to make a counterproposal for the Board's consideration, or the Parties may choose to go through a formal administrative hearing on the above charges, and the recitations herein will be held for naught and are inadmissible in any future proceedings.

17. No breach of any provision of this Agreement can be waived by any undersigned party unless in writing. Waiver of any one breach by an undersigned party shall not be deemed to be a waiver of any other breach of the same or any other provision of this Agreement.

18. This Agreement shall be governed by the laws of the State of Oklahoma.

Executed by the Parties on the dates set forth below:


OKLAHOMA DEPARTMENT  
OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL  
COUNSEL

Brady Robison  
Brady Robison, Assistant General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-6104  
Facsimile: (405) 522-5789

COMPLAINANT

Date: December 7, 2022

- and by -

Patrick L. Hulum  
  
Attorney for Respondent  
Phillips Murrah P.C.  
101 N. Robinson  
OKC, OK 73102  
405-235-4100

Date: December 8, 2022

## Exhibit A

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC-20-693**

**DETERDING AERIAL )  
701 W. CEDAR DR. )  
PUBLIC AIRPORT, WEST HANGAR )  
POND CREEK, OK 73766 )**

**RESPONDENT. )**

**AMENDED NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on Thursday, December 8, 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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<sup>1</sup> 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 pre-filed 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.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**
4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. 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 ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. 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 scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

**JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.
14. Respondent has substantial business operations and assets within the State of Oklahoma.
15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the application of pesticides in the State of Oklahoma.
16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

**2 O.S. §3-86(A)(3)**

A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds:

3. A person has operated in a negligent manner, thereby causing a pesticide to drift off-target.

### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

- On or about July 16th, 2020, an ODAFF inspector investigated a drift complaint concerning an application made to property in the SW1/4 of section 25-29N-1W.
- Respondent's application records indicate that Shredder 2,4-D LV6, Brash, and MSM 60 to the pasture on June 11, 2020, with a 13 mph south wind.
- ODAFF's inspector reported that the trees and other vegetation on the property adjacent to the north of your application area, in the NW1/4 of section 25-29N-1W, were exhibiting herbicide effects.
- Samples of both properties were taken and 2,4-D and Dicamba were recovered in Respondent's application area, as well as the property adjacent to the north.
- On or about October 19, 2020, a Letter of Warning that detailed the above violation was sent to Deterding Aerial.

### **ALLEGED CONCLUSIONS OF LAW**

Based upon the application of the above law to the aforementioned facts, Respondent violated 2 O.S. §3-86(A)(3) by applying pesticides in a negligent manner, thereby resulting in an off-target drift.

### **ATTORNEY CONFERENCES**

18. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

19. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.

20. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

21. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

22. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

23. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

24. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

25. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

### **ENFORCEMENT OF JUDGMENTS**

26. 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.*

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

27. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.
28. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.
29. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

### STIPULATION

30. If Respondent desires to resolve this matter without a hearing or further action,

Complainant proposes an administrative penalty of **One Thousand Dollars (\$1,000.00)**.

31. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600\*

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 28 day of September, 2022, a true and correct copy of the forgoing instrument was mailed, via email to Respondent's attorney, as follows:

**DETERDING AERIAL  
701 W. CEDAR DR.  
PUBLIC AIRPORT, WEST HANGER  
POND CREEK, OK 73766**

*Brady Robison*  
Brady Robison

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC-20-693**

**DETERDING AERIAL )  
701 W. CEDAR DR. )  
PUBLIC AIRPORT, WEST HANGER )  
POND CREEK, OK 73766 )**

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Dollars (\$1,000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

**RESPONDENT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title

Date: \_\_\_\_\_

**OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. ECKLES AIRCRAFT LLC**

**Case File No. OGC-20-821**

**ECKLES AIRCRAFT LLC  
330 AIRPORT LN  
P.O. BOX 1015  
HOLDENVILLE, OK 74848**

**Summary of Facts:** Operating in a negligent manner by applying pesticides off label in a wind that allowed for off-target drift.

**Statute or Rule Violation:** 2 O.S. § 3-86 A(3).

**Proposed Administrative Penalty:** The penalty was originally assessed at \$1000

**Deviations:** This was subject to a settlement agreement and consent order. The Respondent was worried about potential civil liabilities and requested that the stipulation be lowered. This case is over two years old, and it was appropriate to do so. The penalty was ultimately consented to at \$500.

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison



**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**FILED**  
DEC 19 2022  
STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )

COMPLAINANT, )

v. )

Case No: OGC-20-821

ECKLES AIRCRAFT LLC )  
330 AIRPORT LN )  
P.O. BOX 1015 )  
HOLDENVILLE, OK 74848 )

RESPONDENT. )

**SETTLEMENT AGREEMENT AND CONSENT ORDER**

**PARTIES**

1. This Settlement Agreement and Consent Order (the "Agreement") is between the Oklahoma Department of Agriculture, Food, And Forestry (the "Department") and Eckles Aircraft, LLC and Phillip Eckles and its and his past, present, and future partners, affiliates, employees, pilots, members, agents, subcontractors, attorneys, predecessors in interest, successors, and assigns (the "Respondent"). The Department and the Respondence will collectively be referred to herein as the "Parties".

**AUTHORITY**

2. The Department has authority over this matter pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4 (A)(3).

**DEPARTMENT'S NOTICE**

3. On August 29<sup>th</sup>, 2022, the Department issued a Second Amended Notice of Violation in Case No. OGC-20-821, ("Notice") to the Respondent, which is attached hereto as Exhibit A. The Allegations of Fact and Summary of Applicable Law of that Notice are incorporated herein by reference but are specifically and generally denied by Respondent. The Notice shall also be referred to as the "Action".

## **ORDER AND AGREEMENT**

4. In compromise and full settlement of this matter, respondent shall pay to the Department an administrative penalty of Five Hundred Dollars (\$500.00) total. Upon the execution of this agreement by both parties, payment shall be made within 10 days by Respondent payable to the "Oklahoma Department of Agriculture, Food, And Forestry" and mailed to the following address:  
Office of General Counsel  
Oklahoma Department of Agriculture, Food, and Forestry  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298

## **EFFECT OF THE AGREEMENT**

5. In exchange for Respondent's compliance with the terms of this Agreement, the Department agrees not to initiate any further administrative, civil, or criminal proceedings against Respondent, its officers, directors, agents, subcontractors, pilots, customers, servants, employees, members, representatives, parents, subsidiaries, successors and assigns, based or relating to the facts alleged in the Department's Notice. This release shall not prevent the Department from enforcing the terms of this Agreement and does not release Respondent from liability for other unknown or undiscovered past violations or potential future violations of state or federal law. This Agreement relates only to claims within the jurisdiction of the Department and specifically does not release Respondent from actions initiated by other state or federal agencies having jurisdiction over related matters.
6. Respondent and the Department recognize there is risk and expense inherent in any litigation. Thus, the Parties agree to enter into this compromise and settlement to avoid incurring any further cost and expense arising as a result of this Action. Respondent and the Department each do not waive and each expressly reserves all of its rights in any future proceeding against it.
7. The Department does not by entering into this Agreement concede that its factual basis for initiating this Action, and violations found based upon those facts, are not true and accurate. Respondent, denying the truth of said factual averments and having previously contested and denied the alleged violations in informal discussions with representatives of the Department, voluntarily waives its right to a formal evidentiary hearing to contest such factual averments. By entering into this Agreement, Respondent does not admit or consent to the truth of the factual averments set forth in the Notice. The Department and Respondent are avoiding further contention, including litigation of this Action, through settlement of this Action by this Agreement.

## **NO ADMISSION.**

8. This Agreement and any proceedings taken hereunder are not intended and shall not in any event be construed as, or deemed to be, an admission or concession or evidence of

any liability or any wrongdoing whatsoever on the part of the Parties. The Parties hereto specifically disclaim and deny any liability or wrongdoing whatsoever with respect to the allegations and claims asserted against them in this Action and enter into this Agreement solely to avoid the further expense, inconvenience, burden and uncertainty of litigation.

#### **NON-ADMISSIBILITY.**

9. These settlement negotiations have been undertaken by the Parties in good faith and for settlement purposes only, and neither this Agreement nor any evidence of negotiations hereunder, shall be offered or received in evidence in this Action, or any other action or proceeding, for any purpose other than in an action or proceeding to enforce the terms of this Agreement.

#### **HEARING WAIVER**

10. Respondent hereby agrees to waive its right to a hearing and its opportunity to appeal or contest this Agreement. Respondent enters into this Agreement freely and voluntarily.

#### **NOTICE**

11. Unless otherwise specified, reports, notice, or other submissions required under this Agreement shall be in writing and shall be sent to: Bradley K. Donnell, McAfee & Taft, 8<sup>th</sup> Floor, Two Leadership Square 211 N. Robinson, OKC, OK 73102-7103,

#### **MISCELLANEOUS**

12. This Agreement may be amended only by mutual agreement of the Department and Respondent. Such amendments shall be in writing, shall have as their effective date the date on which they are signed by both Parties, and shall be incorporated into this Agreement.
13. The undersigned representative of the Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry agrees to propose and recommend this Agreement to the State Board of Agriculture (the "Board"). Furthermore, Respondent understands that the Office of General Counsel Representative neither possesses the legal power to bind the Board nor can the Office of General Counsel Representative promise acceptance of this Agreement by the Board. Respondent understands that it may attend the meeting of the Board but is not required to do so.
14. Payment for the administrative penalty shall be presented within 10 days of the execution of this Agreement. Such payment will be tendered upon acceptance of this Agreement by the Board at its next regularly scheduled public meeting.
15. In the event the Board accepts this Agreement, Respondent shall receive a copy of the Approval. Compliance with this Agreement shall constitute full and complete settlement.

16. In the event the Board does not approve this Agreement, then Respondent or the Department is free to make a counterproposal for the Board's consideration, or the Parties may choose to go through a formal administrative hearing on the above charges, and the recitations herein will be held for naught and are inadmissible in any future proceedings.
17. No breach of any provision of this Agreement can be waived by any undersigned party unless in writing. Waiver of any one breach by an undersigned party shall not be deemed to be a waiver of any other breach of the same or any other provision of this Agreement.
18. This Agreement shall be governed by the laws of the State of Oklahoma.

Executed by the Parties on the dates set forth below:

OKLAHOMA DEPARTMENT  
OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL  
COUNSEL

Brady Robinson

Brady Robinson, Assistant General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-6104  
Facsimile: (405) 522-5789

COMPLAINANT

Date: December 7, 2022

- and by -

Bradley K. Donnell

Brad Donnell,  
McAfee & Taft  
Counsel for Respondent  
8th Floor, Two Leadership Square  
211 N. Robinson  
Oklahoma City, OK 73102-7103

Date: December 14, 2022

## Exhibit A

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC-20-821**

**ECKLES AIRCRAFT LLC )  
330 AIRPORT LN )  
P.O. BOX 1015 )  
HOLDENVILLE, OK 74848 )**

**RESPONDENT. )**

**2<sup>nd</sup> AMENDED NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on Thursday, December 8, 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

---

<sup>1</sup> 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 pre-filed 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.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**
4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. 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 ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. 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 scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

**JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.
14. Respondent has substantial business operations and assets within the State of Oklahoma.
15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the application of pesticides in the State of Oklahoma.
16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

**2 O.S. §3-86(A)(3)**

- A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds:
  3. A person has operated in a negligent manner, thereby causing a pesticide to drift off-target.



### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

- On or about August 19th, 2020, an ODAFF inspector investigated a drift complaint concerning an application made to property in the SE1/4 of Section 11-5N-7E.
- Respondent's application records indicate that Amine 4 2,4-D and Remedy Ultra were applied to the pasture on June 24th, 2020, with a 5-8 mph east/northeast wind.
- ODAFF's inspector reported that the vegetation on a property west of the application area, located at 14452 N 3630 Rd in Sasakwa, was exhibiting herbicide effects. This property is west of the property sprayed by Respondent on June 24th.
- A vegetative sample was taken from the property west of the application area and 2,4-D and Triclopyr were recovered in the analysis.
- On or about December 4th, 2020, a Letter of Warning that detailed the above violation was sent to Eckles Aircraft LLC.

### **ALLEGED CONCLUSIONS OF LAW**

Based upon the application of the above law to the aforementioned facts, Respondent violated 2 O.S. §3-86(A)(3) by applying pesticides in a negligent manner, thereby resulting in an off-target drift.

### **ATTORNEY CONFERENCES**

18. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

19. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
20. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

21. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and
  - d.) Civil actions.
22. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
23. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.
24. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

25. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

### **ENFORCEMENT OF JUDGMENTS**

26. 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.*

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

27. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.
28. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.
29. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

**STIPULATION**

30. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Dollars (\$1,000.00)**.

31. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

---

Teena G. Ginter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA #13873  
Brady Robison, OBA #33600  
Assistants General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**ECKLES AIRCRAFT LLC  
330 AIRPORT LN  
P.O. BOX 1015  
HOLDENVILLE, OK 74848**

\_\_\_\_\_  
Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )

COMPLAINANT, )

v. )

Case No: OGC-20-821

ECKLES AIRCRAFT LLC )  
330 AIRPORT LN )  
P.O. BOX 1015 )  
HOLDENVILLE, OK 74848 )

RESPONDENT. )

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Dollars (\$1,000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title

Date: \_\_\_\_\_

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. ESCOTT AERIAL SPRAYING**

**Case File No. OGC-20-668, 20-695, 20-704, 21-620, 21-657**

**Escott Aerial Spraying**  
**140 Airport Road**  
**Nowata, OK 74048**

**Summary of Facts:** Operating in a negligent manner by applying pesticides off label in a wind that allowed for off-target drift.

**Statute or Rule Violation:** 2 O.S. § 3-86 A(3).

**Proposed Administrative Penalty:** The penalty was originally assessed at a total of \$7000 between the five cases, ultimately consented to at \$3000 for the five cases. All have been paid in full.

**Deviations:** The Respondent was worried about potential civil liabilities and requested that the stipulation be lowered. The penalty was ultimately consented to at \$3000 between the five cases as follows:

OGC-20-668: Off target drift resulting in damage to neighboring property. Consent order was agreed to with a \$250 penalty.

OGC-20-704: Also, an off-target drift resulting in vegetation damage to the neighboring property. Consented to a \$250 penalty.

OGC-20-695: Off target drift complaint with damages to the neighboring vegetation. Consented to a \$500 penalty.

OGC-21-620: Another off-target drift resulting in vegetation damage to neighboring property. Penalty agreed to at \$500.

OGC-21-657: Off target drift, similar to the others, resulting in damage to neighboring vegetation. Penalty assessed at \$1500.

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**FILED**  
DEC 21 2022  
STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )

COMPLAINANT, )

v. )

Case No: OGC-20-704, 20-668  
20-695, 21-620, 21-657

ESCOTT AERIAL SPRAYING )  
140 AIRPORT DR. )  
NOWATA, OK 74048 )

RESPONDENT. )

**SETTLEMENT AGREEMENT AND CONSENT ORDER**

**PARTIES**

1. This Settlement Agreement and Consent Order (the "Agreement") is between the Oklahoma Department of Agriculture, Food, And Forestry (the "Department") and Escott Aerial Spraying and Tanner Escott and its and his past, present, and future partners, affiliates, employees, pilots, members, agents, subcontractors, attorneys, predecessors in interest, successors, and assigns (the "Respondent"). The Department and the Respondent will collectively be referred to herein as the "Parties".

**AUTHORITY**

2. The Department has authority over this matter pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4 (A)(3).

**DEPARTMENT'S NOTICE**

3. On August 29<sup>th</sup>, 2022, the Department issued a Fourth Amended Notice of Violation in Case No's. OGC-20-668, OGC-20-695, and OGC-20-704, (the "First Notices") to the Respondent, which are attached hereto as Exhibit A. The Allegations of Fact and Summary of Applicable Law contained in the First Notices are incorporated herein by reference but are specifically and generally denied by Respondent. On September 30<sup>th</sup>, 2022, the Department issued a Notice of Violation in Case No's. OGC-21-620 and OGC-21-657, (the "Second Notices") to the Respondent, which are attached hereto as Exhibit B. The Allegations of Fact and Summary of Applicable Law contained in the Second Notices are incorporated herein by reference but are specifically and generally denied by



Respondent. The First Notices and the Second Notices shall collectively be referred herein to as the "Actions".

#### **ORDER AND AGREEMENT**

4. In compromise and full settlement of this matter, Respondent shall pay to the Department an administrative penalty of Three Thousand Dollars (\$3000.00) total. This sum is in full satisfaction of OGC Case No's: OGC-21-657 = \$1500.00; OGC-21-620 = \$500; OGC-20-695 = \$500; OGC-20-668 = \$250 and OGC-20-704 = \$250. Upon the execution of this Agreement by both parties, payment shall be made within 10 days by Respondent payable to the "Oklahoma Department of Agriculture, Food, And Forestry" and mailed to the following address:  
Office of General Counsel  
Oklahoma Department of Agriculture, Food, and Forestry  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298

#### **EFFECT OF THE AGREEMENT**

5. In exchange for Respondent's compliance with the terms of this Agreement, the Department agrees not to initiate any further administrative, civil, or criminal proceedings against Respondent, its officers, directors, agents, subcontractors, pilots, customers, servants, employees, members, representatives, parents, subsidiaries, successors and assigns, based or relating to the facts alleged in the Department's First Notices and Second Notices. This release shall not prevent the Department from enforcing the terms of this Agreement and does not release Respondent from liability for other unknown or undiscovered past violations or potential future violations of state or federal law. This Agreement relates only to claims within the jurisdiction of the Department and specifically does not release Respondent from actions initiated by other state or federal agencies having jurisdiction over related matters.
6. Respondent and the Department recognize there is risk and expense inherent in any litigation. Thus, the Parties agree to enter into this compromise and settlement to avoid incurring any further cost and expense arising as a result of these Actions. Respondent and the Department each do not waive and each expressly reserves all of its rights in any future proceeding against it.
7. The Department does not by entering into this Agreement concede that its factual basis for initiating the Actions, and alleged violations found based upon those facts, are not true and accurate. Respondent, denying the truth of said factual averments and having previously contested and denied the alleged violations in informal discussions with representatives of the Department, voluntarily waives its right to a formal evidentiary hearing to contest such factual averments. By entering into this Agreement, Respondent does not admit or consent to the truth of the factual averments set forth in the First Notices and the Second Notices. The Department and Respondent are avoiding further

contention, including litigation of the Actions, through settlement of the Actions by this Agreement.

#### **NO ADMISSION.**

8. This Agreement and any proceedings taken hereunder are not intended and shall not in any event be construed as, or deemed to be, an admission or concession or evidence of any liability or any wrongdoing whatsoever on the part of the Parties. The Parties hereto specifically disclaim and deny any liability or wrongdoing whatsoever with respect to the allegations and claims asserted against them in the Actions and enter into this Agreement solely to avoid the further expense, inconvenience, burden and uncertainty of litigation.

#### **NON-ADMISSIBILITY.**

9. These settlement negotiations have been undertaken by the Parties in good faith and for settlement purposes only, and neither this Agreement nor any evidence of negotiations hereunder, shall be offered or received in evidence in the Actions, or any other action or proceeding, for any purpose other than in an action or proceeding to enforce the terms of this Agreement.

#### **HEARING WAIVER**

10. Respondent hereby agrees to waive its right to a hearing and its opportunity to appeal or contest this Agreement. Respondent enters into this Agreement freely and voluntarily.

#### **NOTICE**

11. Unless otherwise specified, reports, notice, or other submissions required under this Agreement shall be in writing and shall be sent to: Bradley K. Donnell, McAfee & Taft, 8<sup>th</sup> Floor, Two Leadership Square 211 N. Robinson, OKC, OK 73102-7103.

#### **MISCELLANEOUS**

12. This Agreement may be amended only by mutual agreement of the Department and Respondent. Such amendments shall be in writing, shall have as their effective date the date on which they are signed by both Parties, and shall be incorporated into this Agreement.
13. The undersigned representative of the Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry agrees to propose and recommend this Agreement to the State Board of Agriculture (the "Board"). Furthermore, Respondent understands that the Office of General Counsel Representative neither possesses the legal power to bind the Board nor can the Office of General Counsel Representative promise acceptance of this Agreement by the Board. Respondent understands that it may attend the meeting of the Board but is not required to do so.

14. Payment for the administrative penalty shall be presented within 10 days of the execution of this Agreement. Such payment will be tendered upon acceptance of this Agreement by the Board at its next regularly scheduled public meeting.
15. In the event the Board accepts this Agreement, Respondent shall receive a copy of the Approval. Compliance with this Agreement shall constitute full and complete settlement.
16. In the event the Board does not approve this Agreement, then Respondent or the Department is free to make a counterproposal for the Board's consideration, or the Parties may choose to go through a formal administrative hearing on the above charges, and the recitations herein will be held for naught and are inadmissible in any future proceedings.
17. No breach of any provision of this Agreement can be waived by any undersigned party unless in writing. Waiver of any one breach by an undersigned party shall not be deemed to be a waiver of any other breach of the same or any other provision of this Agreement.
18. This Agreement shall be governed by the laws of the State of Oklahoma.

Executed by the Parties on the dates set forth below:

OKLAHOMA DEPARTMENT  
OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL  
COUNSEL

Brady Robison

Brady Robison, Assistant General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-6104  
Facsimile: (405) 522-5789

COMPLAINANT

Date: December 7, 2022

- and by -

Bradley K. Donnell

Brad Donnell,  
McAfee & Taft  
Counsel for Respondent  
8th Floor, Two Leadership Square  
211 N. Robinson  
Oklahoma City, OK 73102-7103

Date: December 19, 2022

## Exhibit A

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT,**

**v.**

**Case No: OGC-21-620**

**ESCOTT AERIAL SPRAYING )  
500 DARLINGTON RD. NW )  
EL RENO, OK 73036 )**

**RESPONDENT. )**

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on Thursday, December 8<sup>th</sup>, 2022 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.
3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

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<sup>1</sup> 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 pre-filed 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. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. 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 ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. 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 scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.
14. Respondent has substantial business operations and assets within the State of Oklahoma.
15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the application of pesticides in the State of Oklahoma.
16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

#### **2 O.S. §3-86(A)(3)**

A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds:

3. A person has operated in a negligent manner, thereby causing a pesticide to drift off-target.

### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

- On or about May 20<sup>th</sup>, 2021, an ODAFF inspector investigated a drift complaint concerning an application made to property in Sections 18 & 19 of 27N-15E. This property is to the west of the property being investigated.
- Respondent's application records indicate between the hours of 6:55 am and 8:55 am you applied Alligare Dicamba + 2,4-D DMA, and MSM 60 with a 3 mph northeast wind. According to the Mesonet data during the time of your application the winds changed from northeast to northwest, which is blowing directly towards the complainant's property. The Alligare Dicamba + 2,4-D DMA label states to only apply the product if the wind direction favors on-target deposition, and there are no sensitive areas within 250 feet down wind.
- Our inspectors observed the trees and garden plants on this property exhibiting leaf curl consistent with herbicide effects.
- A vegetative sample was taken from your target application area, and 0.132 ppm of 2,4-D and a trace amount of Triclopyr were recovered in the sample analysis.
- On or about September 2, 2021, a Letter of Warning that detailed the above violation was sent to Escott Aerial Spraying.

### **ALLEGED CONCLUSIONS OF LAW**

According to our investigation your application resulted in an off target movement/drift onto the property east of your application area in violation of 2 O.S. §3-86(A)(3) and 2 O.S. §3-86(A)(4).



### **ATTORNEY CONFERENCES**

18. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.
19. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
20. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

21. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and
  - d.) Civil actions.
22. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
23. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

24. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

**OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

25. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

**ENFORCEMENT OF JUDGMENTS**

26. 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.*

**INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

27. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.
28. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.
29. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

**STIPULATION**

30. If Respondent desires to resolve this matter without a hearing or further action,

Complainant proposes an administrative penalty of **One Thousand Dollars (\$1,000.00)**.

31. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

---

Teena G. Gupter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Kambi Maddy, OBA #13873  
Brady Robison, OBA #33600\*  
Assistants General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 30 day of September, 2022, a true and correct copy of the forgoing instrument was e-mailed to Brad Donnell, legal counsel for Escott Aerial, as follows:

**ESCOTT AERIAL SPRAYING  
500 DARLINGTON RD. NW  
EL RENO, OK 73036**

*Brady Robison*  
\_\_\_\_\_  
Brady Robison

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC-21-620**

**ESCOTT AERIAL SPRAYING )  
500 DARLINGTON RD. NW )  
EL RENO, OK 73036 )**

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Dollars (\$1,000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

**RESPONDENT:**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Printed Name and Title**

**Date:** \_\_\_\_\_

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC-21-657**

**ESCOTT AERIAL SPRAYING )  
500 DARLINGTON RD. NW )  
EL RENO, OK 73036 )**

**RESPONDENT. )**

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on Thursday, December 8<sup>th</sup>, 2022 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.
3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

---

<sup>1</sup> 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 pre-filed 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. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. 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 ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. 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 scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.
14. Respondent has substantial business operations and assets within the State of Oklahoma.
15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the application of pesticides in the State of Oklahoma.
16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

#### **2 O.S. §3-86(A)(3)**

A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds:

3. A person has operated in a negligent manner, thereby causing a pesticide to drift off-target.



### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

- On or about June 2<sup>nd</sup>, 2021, an ODAFF inspector investigated a consumer complaint. Upon arrival at 11876 State Highway 10 in Wann, OK inspectors spoke with the complainant who stated that she was working in her garden and a spray plane flew over and she was sprayed. Our inspector arrived the same day as the incident.
- The aerial application occurred adjacent to the west and south of the complainant's property in Section 14-28N-14E.
- According to your application records you made an application to the pastureland in this section on June 2, 2021, using Alligare 2,4-D Amine and Triclopyr 4.
- The complainant's clothes and garden plants were taken during the investigation.
- The sample analysis of the complainant's clothing recovered 1.32 ppm of 2,4-D. The vegetative sample taken from the garden recovered 8.91 ppm of 2,4-D and 1.95 ppm of Triclopyr.
- A vegetative sample was taken from the field you sprayed, and 50 ppm of 2,4-D, 15.8 ppm of Triclopyr, and 0.593 ppm of Picloram was recovered in the analysis.
- According to our investigation your application resulted in and off-target movement/drift onto the complainant's property and person.

### **ALLEGED CONCLUSIONS OF LAW**

According to our investigation your application resulted in an off target movement/drift onto the property east of your application area in violation of 2 O.S. §3-86(A)(3) and 2 O.S. §3-86(A)(4).

### **ATTORNEY CONFERENCES**

18. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.
19. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
20. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

21. Enforcement proceedings may include but are not limited to:
  - a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and
  - d.) Civil actions.
22. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall

have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

23. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

24. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

#### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

25. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

#### **ENFORCEMENT OF JUDGMENTS**

26. 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.*

#### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

27. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

28. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

29. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

**STIPULATION**

30. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Three Thousand Dollars (\$3,000.00)**.
31. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

---

Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Kambi Maddy, OBA #13873  
Brady Robison, OBA #33600\*  
Assistant General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 30 day of September, 2022, a true and correct copy of the forgoing instrument was e-mailed to Brad Donnell, legal counsel for Escott Aerial, as follows:

**ESCOTT AERIAL SPRAYING  
500 DARLINGTON RD. NW  
EL RENO, OK 73036**

*Brady Robison*  
Brady Robison

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC-21-657**

**ESCOTT AERIAL SPRAYING )  
500 DARLINGTON RD. NW )  
EL RENO, OK 73036 )**

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Three Thousand Dollars (\$3,000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

**RESPONDENT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title

Date: \_\_\_\_\_

THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL

**v.**

**ESCOTT AERIAL SPRAYING**  
**500 DARLINGTON RD. NW**  
**EL RENO, OK 73036**

1. Complainant, the Office of General Counsel (“OGC”) of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on Thursday, December 8<sup>th</sup>, 2022 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

1 Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including  
2 the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and  
3 limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative  
4 evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of  
5 prehearing briefs and pre-filed testimony in the form of sworn affidavits, g.) Settlement of all or some of the issues  
6 prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may  
7 involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and  
8 j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. 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 ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. 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 scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.



### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.
14. Respondent has substantial business operations and assets within the State of Oklahoma.
15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the application of pesticides in the State of Oklahoma.
16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

#### **2 O.S. §3-86(A)(3)**

A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds:

3. A person has operated in a negligent manner, thereby causing a pesticide to drift off-target.

### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

- On or about July 6th, 2020, an ODAFF inspector investigated a drift complaint concerning an application made to property in Section 31-28N-17E.
- Respondent's application records indicate that Alligare 2,4-D Amine, and Alligare Triclopyr 4 to the pasture on June 6, 2020, with a 10 mph south wind and no buffer zone.
- ODAFF's inspector reported that the vegetation on a property in the E1/2 NW1/4 Section 31-28N-17E was exhibiting herbicide effects and had over 200 bee hives on the property. This property is north of the property sprayed by Respondent on June 6<sup>th</sup>.
- A vegetative sample was taken from the property north of the application area and 2,4-D and Triclopyr were recovered in the analysis.
- On or about September 21, 2020, a Letter of Warning that detailed the above violation was sent to Escott Aerial Spraying.

### **ALLEGED CONCLUSIONS OF LAW**

Based upon the application of the above law to the aforementioned facts, Respondent violated OAC 35:30-17-73 by failing to apply the appropriate level of pesticide.

### **ATTORNEY CONFERENCES**

18. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

19. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
20. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

21. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and
  - d.) Civil actions.
22. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
23. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.
24. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

25. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

### **ENFORCEMENT OF JUDGMENTS**

26. 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.*

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

27. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.
28. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.
29. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

### **STIPULATION**

30. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Dollars (\$1,000.00)**.
31. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

---

Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA #13873  
Brady Robison, OBA #33600  
Assistants General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2021, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**ESCOTT AERIAL SPRAYING  
500 DARLINGTON RD. NW  
EL RENO, OK 73036**

---

Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC-20-668**

**ESCOTT AERIAL SPRAYING )  
500 DARLINGTON RD. NW )  
EL RENO, OK 73036 )**

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Dollars (\$1,000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

**RESPONDENT:**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Printed Name and Title**

**Date:** \_\_\_\_\_

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC-20-695**

**ESCOTT AERIAL SPRAYING )  
500 DARLINGTON RD. NW )  
EL RENO, OK 73036 )**

**RESPONDENT. )**

**4<sup>th</sup> AMENDED NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on Thursday, December 8<sup>th</sup>, 2022 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.
3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

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<sup>1</sup> 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 pre-filed 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. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. 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 ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. 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 scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.
14. Respondent has substantial business operations and assets within the State of Oklahoma.
15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the application of pesticides in the State of Oklahoma.
16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

#### **2 O.S. §3-86(A)(3)**

- A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds:
  3. A person has operated in a negligent manner, thereby causing a pesticide to drift off-target.

### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

- On or about June 22nd, 2020, an ODAFF inspector investigated a drift complaint concerning an application made to property in Section 31-24N-12E.
- Respondent's application records indicate that Alligare 2,4-D Amine, and Alligare Triclopyr 4 to the pasture on June 16, 2020, with a 2 mph southwest wind and no buffer zone.
- ODAFF's inspector reported that the vegetation on a property west of the application area, 7264 State Highway 11 in Skiatook, was exhibiting herbicide effects and had bee hives on the property. This property is west of the property sprayed by Respondent on June 16<sup>th</sup>.
- A vegetative sample was taken from the property west of the application area and 2,4-D and Triclopyr were recovered in the analysis.
- On or about October 20th, 2020, a Letter of Warning that detailed the above violation was sent to Escott Aerial Spraying.

### **ALLEGED CONCLUSIONS OF LAW**

Based upon the application of the above law to the aforementioned facts, Respondent violated 2 O.S. §3-86(A)(3) by applying pesticides in a negligent manner, thereby resulting in an off-target drift.

### **ATTORNEY CONFERENCES**

18. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.
19. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
20. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

21. Enforcement proceedings may include but are not limited to:
  - a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and
  - d.) Civil actions.
22. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
23. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

24. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

**OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

25. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

**ENFORCEMENT OF JUDGMENTS**

26. 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.*

**INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

27. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.
28. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.
29. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

**STIPULATION**

30. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Dollars (\$1,000.00)**.
31. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by

check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

---

Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Wendi Morse, OBA # 33571  
Kambi Maddy, OBA #13873  
Shelby Turner, OBA #34010  
Assistants General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2021, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**ESCOTT AERIAL SPRAYING  
500 DARLINGTON RD. NW  
EL RENO, OK 73036**

\_\_\_\_\_  
Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC-20-695**

**ESCOTT AERIAL SPRAYING )  
500 DARLINGTON RD. NW )  
EL RENO, OK 73036 )**

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Dollars (\$1,000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

**RESPONDENT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title

Date: \_\_\_\_\_



**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT,**

**v.**

**Case No: OGC-20-704**

**ESCOTT AERIAL SPRAYING )  
500 DARLINGTON RD. NW )  
EL RENO, OK 73036 )**

**RESPONDENT. )**

**4<sup>th</sup> AMENDED NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on Thursday, December 8<sup>th</sup>, 2022 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.
3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

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<sup>1</sup> 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 pre-filed 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. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. 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 ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. 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 scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

**JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.
14. Respondent has substantial business operations and assets within the State of Oklahoma.
15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the application of pesticides in the State of Oklahoma.
16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

**2 O.S. §3-86(A)(3)**

A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds:

3. A person has operated in a negligent manner, thereby causing a pesticide to drift off-target.

### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

- On or about July 9th, 2020, an ODAFF inspector investigated a drift complaint concerning an application made to property in Section 36-26N-11E.
- Respondent's application records indicate that Alligare 2,4-D Amine, and Alligare Triclopyr 4 to the pasture on May 31st, 2020.
- ODAFF's inspector reported that willow trees, sumac, blackberries, persimmon trees, sand plum, and other vegetation on a property south of the application area, 2053 CR 2145 in Bartlesville, was exhibiting herbicide effects. This property is south of the property sprayed by Respondent on May 31st.
- A vegetative sample was taken from the property south of the application area and 2,4-D and Triclopyr were recovered in the analysis.
- On or about October 26th, 2020, a Letter of Warning that detailed the above violation was sent to Escott Aerial Spraying.

### **ALLEGED CONCLUSIONS OF LAW**

Based upon the application of the above law to the aforementioned facts, Respondent violated 2 O.S. §3-86(A)(3) by applying pesticides in a negligent manner, thereby resulting in an off-target drift.

### **ATTORNEY CONFERENCES**

18. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

19. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
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### **ENFORCEMENT PROCEEDINGS**

21. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and
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22. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
23. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.
24. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

25. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

### **ENFORCEMENT OF JUDGMENTS**

26. 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.*

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

27. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.
28. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.
29. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

### **STIPULATION**

30. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Dollars (\$1,000.00)**.
31. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

---

Teena G. Ginter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA #13873  
Brady Robison, OBA #33600  
Assistants General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2021, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**ESCOTT AERIAL SPRAYING  
500 DARLINGTON RD. NW  
EL RENO, OK 73036**

\_\_\_\_\_  
Gina Blaylock



**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT,**

**v.**

**Case No: OGC-20-704**

**ESCOTT AERIAL SPRAYING )  
500 DARLINGTON RD. NW )  
EL RENO, OK 73036 )**

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Dollars (\$1,000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

**RESPONDENT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title

Date: \_\_\_\_\_

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

**CHAPTER 1. ADMINISTRATIVE OPERATIONS**

**SUBCHAPTER 10. REQUIREMENTS FOR DEPARTMENT PROGRAMS**

**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 (~~2021~~ 2022 Revision).

the 1990s, the number of people with a diagnosis of schizophrenia has increased in the United Kingdom (Meltzer 1997).

There is a growing awareness of the need to improve the lives of people with mental health problems. The Department of Health (1999) has set out a vision of a new mental health system, which will be based on the following principles: (1) people with mental health problems should be treated as individuals, (2) people should be given the opportunity to make choices about their care, (3) people should be given the opportunity to participate in decisions about their care, and (4) people should be given the opportunity to live as normal as possible.

The Department of Health (1999) has also set out a vision of a new mental health system, which will be based on the following principles: (1) people with mental health problems should be treated as individuals, (2) people should be given the opportunity to make choices about their care, (3) people should be given the opportunity to participate in decisions about their care, and (4) people should be given the opportunity to live as normal as possible.

The Department of Health (1999) has also set out a vision of a new mental health system, which will be based on the following principles: (1) people with mental health problems should be treated as individuals, (2) people should be given the opportunity to make choices about their care, (3) people should be given the opportunity to participate in decisions about their care, and (4) people should be given the opportunity to live as normal as possible.

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## **RULE IMPACT STATEMENT**

### **TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 1. ADMINISTRATIVE OPERATIONS**

- (A) **PURPOSE OF THE PROPOSED RULE:**  
The proposed rules provide for current citations to the Code of Federal Regulations.
- (B) **CLASSES OF PERSONS WHO MOST LIKELY WILL BE AFFECTED BY THE PROPOSED RULE AND ANY INFORMATION ON COST IMPACTS RECEIVED BY THE AGENCY FROM ANY PRIVATE OR PUBLIC ENTITIES:**  
The proposed rules affect persons regulated by the Department. No cost impacts have been received to date.
- (C) **PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULE:**  
Persons who rely on current citations for the Department's programs will benefit from the proposed rules.
- (D) **DESCRIPTION OF THE PROBABLE IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS:**  
Persons who rely on the Department's programs will be provided with current legal citations in the proposed rules.
- (E) **PROBABLE COST AND BENEFITS TO AGENCY; SOURCE OF REVENUE FOR IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULE:**  
No additional cost to the Department is anticipated by the proposed rules.
- (F) **DETERMINATION OF WHETHER IMPLEMENTATION WILL HAVE ANY ECONOMIC IMPACT ON ANY POLITICAL SUBDIVISION OR REQUIRE THEIR COOPERATION IN IMPLEMENTING OR ENFORCING THE PROPOSED RULE:**  
No effect on any political subdivision is anticipated by the proposed rules.
- (G) **DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULE WILL HAVE AN ADVERSE EFFECT ON SMALL BUSINESS AS PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT:**  
The proposed rules will have no adverse effect on small business.
- (H) **DETERMINATION OF WHETHER THERE ARE LESS COSTLY METHODS OR NON-REGULATORY METHODS FOR ACHIEVING THE PURPOSE OF THE PROPOSED RULES:**  
The Department is unaware of any non-regulatory methods to achieve the purpose of the proposed rules.

(I) **DETERMINATION OF THE EFFECT OF THE PROPOSED RULE ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:**

The proposed rules will not affect the public health, safety, and environment.

(J) **DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:**

The Department is not aware of any detrimental effect the proposed rules will have on public health, safety, and environment.

(K) **DATE RULE IMPACT STATEMENT WAS PREPARED:**

This rule impact statement was prepared on November 21, 2022.

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

**CHAPTER 2. FEES**

**SUBCHAPTER 3. FEE SCHEDULES**

**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 ~~\$30.00~~ \$34.00 per hour.

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

(a) Certificates of Veterinary Inspection (Health Certificates) - ~~\$35.00~~ \$75.00 per pad of 25 with ~~\$6~~ \$8.00 shipping for up to first 10 pads and ~~an additional \$6 shipping for each additional 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) ~~Shipping fee per order - \$6.00.~~
- (8) ~~Cash On Delivery (C.O.D.) shipping fee per order - actual cost.~~
- (9) Large wing band plier - \$25.00 each.
- (10) ~~(8) Bleeder loop - \$12.00 each.~~
- (9) Shipping fee for poultry tester supplies - actual cost of shipping.

(c) Contagious Equine Metritis Quarantine Monitoring:

- (1) ~~Stallions - \$500 each.~~
- (2) ~~Mares - \$500~~ \$750.00 for the first mare, \$200 and \$375.00 for each additional mare in the same quarantine.

(d) Shipping fee for Radio Frequency Identification Device (RFID) tags ~~-\$10.00 per 1,000 tags~~ shall be the actual cost of shipping.

(e) Ear tag applicators - standard retail price.



## RULE IMPACT STATEMENT

### TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 2. FEES

- (A) **PURPOSE OF THE PROPOSED RULE:**  
The proposed rule amendments increase and provide for certain fees to cover the Department's costs of labor and supply.
- (B) **CLASSES OF PERSONS WHO MOST LIKELY WILL BE AFFECTED BY THE PROPOSED RULE AND ANY INFORMATION ON COST IMPACTS RECEIVED BY THE AGENCY FROM ANY PRIVATE OR PUBLIC ENTITIES:**  
The proposed rules will affect persons or entities that pay fees for goods and services from the Department.
- (C) **PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULE:**  
Taxpayers will benefit from the rules as the cost of providing goods and services will be borne primarily by the person or entity receiving the goods or services rather than funds appropriated to the Department by the Legislature.
- (D) **DESCRIPTION OF THE PROBABLE IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS:**  
The cost of providing goods and services will be borne primarily by the person or entity requesting the goods and services rather than funds appropriated to the Department by the Legislature.
- (E) **PROBABLE COST AND BENEFITS TO AGENCY; SOURCE OF REVENUE FOR IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULE:**  
The cost of providing goods and services will be borne primarily by the person or entity requesting the goods and services rather than funds appropriated to the Department by the Legislature.
- (F) **DETERMINATION OF WHETHER IMPLEMENTATION WILL HAVE ANY ECONOMIC IMPACT ON ANY POLITICAL SUBDIVISION OR REQUIRE THEIR COOPERATION IN IMPLEMENTING OR ENFORCING THE PROPOSED RULE:**  
No effect on any political subdivision is anticipated by the proposed rules.
- (G) **DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULE WILL HAVE AN ADVERSE EFFECT ON SMALL BUSINESS AS PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT:**  
The proposed rules will have no adverse effect on small business. However, fees charged by the Department for goods and services are increased in the proposed rules. Accordingly, small businesses that purchase goods and services will pay increased fees.



(H) **DETERMINATION OF WHETHER THERE ARE LESS COSTLY METHODS OR NON-REGULATORY METHODS FOR ACHIEVING THE PURPOSE OF THE PROPOSED RULES:**

The Department is unaware of any non-regulatory methods to achieve the purpose of the proposed rules.

(I) **DETERMINATION OF THE EFFECT OF THE PROPOSED RULE ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:**

The proposed rules will not detrimentally affect the public health, safety, and environment.

(J) **DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:**

The Department is not aware of any detrimental effect the proposed rules will have on public health, safety, and environment.

(K) **DATE RULE IMPACT STATEMENT WAS PREPARED:**

This rule impact statement was prepared November 21, 2022.

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

**CHAPTER 10 – AGRICULTURAL PRODUCTS**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**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" (~~2022~~ 2023 Edition).
- (2) Handbook 130 "Uniform Laws and Regulations" (~~2022~~ 2023 Edition), excluding Section G "Uniform Engine Fuels and Automotive Lubricants Regulation."
- (3) Handbook 133 "Checking the Net Contents of Packaged Goods" (~~2020~~ 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" (~~1996~~ 2021 Edition).
- (6) Handbook 105-3 "Specifications and Tolerances for Graduated Neck Type Volumetric Field Standards" (2010 Edition).
- (7) Publication 14 (2021 Edition).
- (8) Publication 12 (1991 Edition).
- (9) Federal Grain Inspection Service Moisture Handbook (2006 Edition).



## RULE IMPACT STATEMENT

### TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 10. AGRICULTURAL PRODUCTS

- (A) **PURPOSE OF THE PROPOSED RULE:**  
The proposed rule amendments update handbook and publication references.
- (B) **CLASSES OF PERSONS WHO MOST LIKELY WILL BE AFFECTED BY THE PROPOSED RULE AND ANY INFORMATION ON COST IMPACTS RECEIVED BY THE AGENCY FROM ANY PRIVATE OR PUBLIC ENTITIES:**  
The proposed rule amendments affect persons regulated by the Department's agricultural products programs. No cost impacts have been received to date.
- (C) **PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULE:**  
Persons relying on the Department's agricultural products programs will benefit from the proposed rule amendments.
- (D) **DESCRIPTION OF THE PROBABLE IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS:**  
Persons relying on the Department's agricultural products programs will be provided with updated handbook and publication references.
- (E) **PROBABLE COST AND BENEFITS TO AGENCY; SOURCE OF REVENUE FOR IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULE:**  
No additional cost to the Department is anticipated by the proposed rule amendments.
- (F) **DETERMINATION OF WHETHER IMPLEMENTATION WILL HAVE ANY ECONOMIC IMPACT ON ANY POLITICAL SUBDIVISION OR REQUIRE THEIR COOPERATION IN IMPLEMENTING OR ENFORCING THE PROPOSED RULE:**  
No effect on any political subdivision is anticipated by the proposed rule amendments.
- (G) **DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULE WILL HAVE AN ADVERSE EFFECT ON SMALL BUSINESS AS PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT:**  
The proposed rule amendments will have no adverse effect on small business.
- (H) **DETERMINATION OF WHETHER THERE ARE LESS COSTLY METHODS OR NON-REGULATORY METHODS FOR ACHIEVING THE PURPOSE OF THE PROPOSED RULES:**  
The Department is unaware of any non-regulatory methods to achieve the purpose of the proposed rule amendments.

(I) **DETERMINATION OF THE EFFECT OF THE PROPOSED RULE ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:**

The proposed rule amendments will not affect the public health, safety, and environment.

(J) **DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:**

The Department is not aware of any detrimental effect the proposed rule amendments will have on public health, safety, and environment.

(K) **DATE RULE IMPACT STATEMENT WAS PREPARED:**

This rule impact statement was prepared on November 21, 2022.

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

### CHAPTER 15. ANIMAL INDUSTRY

#### SUBCHAPTER 9. LIVESTOCK SPECIAL SALES

##### 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, ~~complete~~ email address, and telephone number of person requesting the permit.

###### **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, ~~and. Retained records shall at a minimum 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 ~~or, if a minor, the representative of the purchaser;~~ and
- (6) All other written correspondence pertaining to livestock advertised or sold in the sale.

###### **35:15-9-9. Submission of record sales**

(a) The permit holder shall ~~may~~ submit to the Board ~~within fifteen (15) days after the special sale~~ 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 ~~or representative~~, and the name, mailing address, and telephone number of the purchaser ~~or, if a minor, the representative 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.

#### SUBCHAPTER 13. TESTING AND INSPECTION FOR DISEASE AND RELEASE OF LIVESTOCK AT AUCTION MARKETS

###### **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 ~~breed~~ 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 ~~breed~~ 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.

### **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 ~~includes documents~~ shall include documents that are incomplete as to official identification ~~number numbers~~ and ~~description descriptions~~ of animal ~~it represents the animals they represent. In order to~~ 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) Dairy cattle or Mexican cattle 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.

### **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, Actinomyces (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.

## **SUBCHAPTER 22. SWINE PSEUDORABIES AND BRUCELLOSIS**

### **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 ear tag. 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 ~~June 1~~ May 15 each year for summer and fall exhibitions and after ~~December 1~~ 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.

## **SUBCHAPTER 34. FERAL SWINE**

### **35:15-34-13. License fees**

(a) Sporting facilities ~~that are not licensed as a commercial hunting area by the Oklahoma Department of Wildlife Conservation:~~

(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 - ~~\$200~~ \$225.

(2) Renewal fee – ~~\$100~~

(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.

## **SUBCHAPTER 44. FARMED CERVIDAE**

### **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.

~~(1) The import permit~~ A Cervidae Import Permit shall be valid for thirty (30) days from approval.

~~(2) Cervidae Import Permit applications shall be submitted to the Department no less than three (3) working days prior to the scheduled shipment.~~

(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.

~~(e)~~ ~~(d)~~ The State Veterinarian or designee may require a brucellosis test of any cervidae subject to the provisions of this subchapter.

~~(d)~~ ~~(e)~~ All cervidae shall meet the tuberculosis testing provisions found at 9 CFR Part 77 (2021 Revision).

~~(e)~~ ~~(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 from a county where no chronic wasting disease has been confirmed 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 to be cervidae susceptible to chronic wasting disease.

#### **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 hunting 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 hunting area harvest facility.

(c) The removal of an official identification ~~devices~~ 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.

### **SUBCHAPTER 47. CHRONIC WASTING DISEASE (CWD) IN CERVIDS 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 ~~(2021 Revision)~~ are adopted by reference.

(b) Caribou and Reindeer shall meet all interstate movement regulations that apply to cervidae found at 9 CFR Part 81 ~~(2021 Revision)~~.

the 1990s, the number of people with a diagnosis of schizophrenia has increased by 20% (Meltzer 1997).

There is a growing awareness of the need to address the needs of people with mental health problems, and the importance of the role of the community in this. The World Health Organization (WHO) has developed a number of initiatives to address the needs of people with mental health problems, and the importance of the role of the community in this. The WHO has developed a number of initiatives to address the needs of people with mental health problems, and the importance of the role of the community in this. The WHO has developed a number of initiatives to address the needs of people with mental health problems, and the importance of the role of the community in this.

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## **RULE IMPACT STATEMENT**

### **TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 15. ANIMAL INDUSTRY**

**(A) PURPOSE OF THE PROPOSED RULE:**

The proposed rule amendments modify certain application requirements to include email address; modify contents of certain records kept for livestock special sales; modify requirements for submission of records for special sales; modify general requirements for livestock auction markets; clarify requirements for movement of livestock through livestock auction markets; require certain sales to be made pursuant to livestock auction market license; modify testing requirements for certain swine; modify license fees for certain facilities; modify import and identification requirements of certain cervidae; and delete obsolete language.

**(B) CLASSES OF PERSONS WHO MOST LIKELY WILL BE AFFECTED BY THE PROPOSED RULE AND ANY INFORMATION ON COST IMPACTS RECEIVED BY THE AGENCY FROM ANY PRIVATE OR PUBLIC ENTITIES:**

The proposed rules affect persons who keep, buy, sell, or transport livestock and other animals, or consume products derived from livestock. No cost impacts have been received to date.

**(C) PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULE:**

Persons who keep, buy, sell, or transport livestock and other animals, or consume products derived from livestock, will benefit from the proposed rules. Taxpayers will benefit from the rules as the cost of licensing will be borne primarily by the person or entity requesting the license rather than funds appropriated to the Department by the Legislature.

**(D) DESCRIPTION OF THE PROBABLE IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS:**

Persons who keep, buy, sell, or transport livestock and other animals, or consume products derived from livestock, will benefit from the proposed rules. The cost of licensing will be borne primarily by the person or entity requesting licensing rather than funds appropriated to the Department by the Legislature.

**(E) PROBABLE COST AND BENEFITS TO AGENCY; SOURCE OF REVENUE FOR IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULE:**

No additional cost to the Department is anticipated by the proposed rules. The cost of licensing will be borne primarily by the person or entity requesting licensing rather than funds appropriated to the Department by the Legislature.

**(F) DETERMINATION OF WHETHER IMPLEMENTATION WILL HAVE ANY ECONOMIC IMPACT ON ANY POLITICAL SUBDIVISION OR REQUIRE**

**THEIR COOPERATION IN IMPLEMENTING OR ENFORCING THE PROPOSED RULE:**

No effect on any political subdivision is anticipated by the proposed rules.

**(G) DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULE WILL HAVE AN ADVERSE EFFECT ON SMALL BUSINESS AS PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT:**

The proposed rules will have no adverse effect on small business. However, fees charged by the Department for licensing are modified and increased in the proposed rules. Accordingly, small businesses who require licensing will pay modified and increased fees.

**(H) DETERMINATION OF WHETHER THERE ARE LESS COSTLY METHODS OR NON-REGULATORY METHODS FOR ACHIEVING THE PURPOSE OF THE PROPOSED RULES:**

The Department is unaware of any non-regulatory methods to achieve the purpose of the proposed rules.

**(I) DETERMINATION OF THE EFFECT OF THE PROPOSED RULE ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:**

The proposed rules will benefit public health, safety, and the environment.

**(J) DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:**

The Department is not aware of any detrimental effect the proposed rules will have on public health, safety, and environment.

**(K) DATE RULE IMPACT STATEMENT WAS PREPARED:**

This rule impact statement was prepared on November 21, 2022.

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

### CHAPTER 17. WATER QUALITY

#### SUBCHAPTER 5. REGISTERED POULTRY FEEDING OPERATIONS

##### **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 reregister 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 ~~may~~ shall also be reviewed and updated in the following circumstances:
  - (A) When ~~a change in the Oklahoma Department of Agriculture, Food, and Forestry changes the waste utilization standards occurs and upon notification by the Oklahoma Department of Agriculture, Food, and Forestry; and or~~
  - (B) Upon ~~recommendation~~ notification of the Oklahoma Department of Agriculture, Food, and Forestry.
- (5) ~~Plans~~ 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 ~~current USDA NRCS 590 Standard, unless the Oklahoma Department of Agriculture, Food, and Forestry approves other standards~~ contained in Appendix A.

##### **35:17-5-5. Nutrient Management Plan**

(a) The NMP shall comply with all requirements contained in Appendix A 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 ~~only~~ 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 allowed as a method of 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.

(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.

## **APPENDIX B**

### **Nutrient Management Plan Requirements**

#### **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>).



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

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.

When applicable, plans shall include other practices or management activities as determined by specific regulation, program requirements, or producer goals.

**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

				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 <sup>1/</sup>	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

<sup>1/</sup> 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.

**TABLE 2: Phosphorus Requirements**

P Soil Test Index	Established Bermudagrass		Established Cool Season Grasses		Established Old World Bluestem		Established Weeping Lovegrass	
	P <sub>2</sub> O <sub>5</sub> lbs/ac	Percent Sufficiency	P <sub>2</sub> O <sub>5</sub> lbs/ac	Percent Sufficiency	P <sub>2</sub> O <sub>5</sub> lbs/ac	Percent Sufficiency	P <sub>2</sub> O <sub>5</sub> 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 <sub>2</sub> O <sub>5</sub> lbs/ac	Percent Sufficiency	P <sub>2</sub> O <sub>5</sub> lbs/ac	Percent Sufficiency	P <sub>2</sub> O <sub>5</sub> lbs/ac	Percent Sufficiency	P <sub>2</sub> O <sub>5</sub> 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 <sub>2</sub> O <sub>5</sub> lbs/ac	Percent Sufficiency	P <sub>2</sub> O <sub>5</sub> lbs/ac	Percent Sufficiency	P <sub>2</sub> O <sub>5</sub> lbs/ac	Percent Sufficiency	P <sub>2</sub> O <sub>5</sub> 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 <sub>2</sub> O <sub>5</sub> lbs/ac	Percent Sufficiency	P <sub>2</sub> O <sub>5</sub> lbs/ac	Percent Sufficiency	P <sub>2</sub> O <sub>5</sub> lbs/ac	Percent Sufficiency	P <sub>2</sub> O <sub>5</sub> 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

65+	0	100	0	100	0	100	0	100
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## 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 <sub>2</sub> O <sub>5</sub> 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 <sub>2</sub> O <sub>5</sub> lbs/ac	Percent Sufficiency
0	100	30
10	75	60
20	45	80
40	25	95
65+	0	100



**TABLE 3: Crop Nutrient Removal \***

% of Dry Material Harvested						
Forage as Hay Crop			% 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
% 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 lbs- (6000 lbs X 0.0905 (% moisture))) X 0.0019 (%P/lb) = 10.37 lbs/ac phosphorus in hay

(6000 lbs – (6000 lbs X 0.0905 (% moisture))) X 0.0137 (%N/lb) = 75.01 lbs/ac nitrogen in hay

(6000 lbs – (6000 lbs X 0.0905 (% moisture))) X 0.0155 (%K/lb) = 84.57.0 lbs/ac potassium in hay

**Wheat:** Yield 40 bu/ac = 60 lbs/bu x 40 bu = 2400 lbs of grain

40 bu/ac x 92.48 lbs/bu straw = 3,699.2 lbs/ac straw produced

1 ton/ac straw baled and removed from field = 1 ton/ac x 2000 lbs = 2000 lbs of straw/ac Grain:

**( 2400 lbs/ac - (2400 lbs/ac X 0.1168 (% moisture))) x 0.0230 (%N/lb) = 48.75lbs/ac Nitrogen in grain**

**(2400 lbs/ac – (2400 lbs/ac X 0.1168 (% moisture))) x 0.0043 (%P/lb) = 9.11 lbs/ac Phosphorus in grain**

**(2400 lbs/ac – (2400 lbs/ac X 0.1168 (% moisture))) x 0.0049 (%K/lb) = 10.39 lbs/ac Potassium in grain**

**Straw: ( 2000 lbs/ac – (2000 lbs/ac X 0.0922 (% moisture))) x 0.0064 (%N lb) = 11.62 lbs/ac Nitrogen in straw**

**(2000 lbs/ac – (2000 lbs/ac X 0.0922 (% moisture))) x 0.0006 (%P lb) = 1.09 lbs/ac Phosphorus in straw**

**(2000 lbs/ac – (2000 lbs/ac X 0.0922 (% moisture))) x 0.0057 (%K/lb) = 10.35 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**

**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 <sup>1</sup>	Plant Removal <sup>1</sup>	Plant Removal <sup>1</sup>
*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 <sup>1</sup>
*Severe	*	No Application

<sup>1</sup> Note – It may not be feasible to calibrate equipment and make manure applications at the Plant Removal rate.

**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 P<sub>2</sub>O<sub>5</sub> rates:**

1. 200 lbs P<sub>2</sub>O<sub>5</sub> per acre when surface applied.
2. 300 lbs P<sub>2</sub>O<sub>5</sub> per acre when application is by sprinkler irrigation and managed to prevent runoff from the field.
3. 400 lbs P<sub>2</sub>O<sub>5</sub> per acre if injected or incorporated below the soil surface.

**Half Rate – Not to exceed the Nitrogen requirement of the crop and the following P<sub>2</sub>O<sub>5</sub> rates:**

1. 100 lbs P<sub>2</sub>O<sub>5</sub> per acre when surface applied.
2. 150 lbs P<sub>2</sub>O<sub>5</sub> per acre when application is by sprinkler irrigation and managed to prevent runoff from the field.
3. 200 lbs P<sub>2</sub>O<sub>5</sub> 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 P<sub>2</sub>O<sub>5</sub> rate per application at least 30 days apart.

**Severe Rating - No Manure Application.**

**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.

the 1990s, the number of people with a mental health problem has increased by 50% (Mental Health Foundation 1999).

There is a growing awareness of the need to address the needs of people with mental health problems in the community. The Department of Health (1999) has set out a vision for the future of mental health services, which includes a focus on preventing mental health problems, supporting people with mental health problems in the community, and providing specialist services for people with severe mental health problems. The vision is based on the principles of recovery, which involves helping people to live full and meaningful lives, despite their mental health problems.

Recovery is a process, and it is not always linear. It involves a range of factors, including personal strengths, social support, and access to services. The recovery process is often supported by a range of interventions, including psychological therapies, social support, and self-help. The recovery process is often supported by a range of interventions, including psychological therapies, social support, and self-help. The recovery process is often supported by a range of interventions, including psychological therapies, social support, and self-help.

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## RULE IMPACT STATEMENT

### TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 17. WATER QUALITY

(A) **PURPOSE OF THE PROPOSED RULE:**

The proposed permanent rule amendments require registered poultry feeding operations to complete and implement nutrient management plans within one year of application to the Department, modify requirements for review and update of nutrient management plans, and provide an appendix with additional nutrient management requirements when using poultry litter and other nutrient resources. The Department promulgated emergency rules pursuant to the requirements of House Bill 2983 of the 2022 legislative session to effectuate the changes to nutrient management plans. The proposed permanent rule amendments will replace the emergency rules which were approved by the Governor and became effective on October 20, 2022.

(B) **CLASSES OF PERSONS WHO MOST LIKELY WILL BE AFFECTED BY THE PROPOSED RULE AND ANY INFORMATION ON COST IMPACTS RECEIVED BY THE AGENCY FROM ANY PRIVATE OR PUBLIC ENTITIES:**

The proposed rules will primarily affect owners and operators of poultry feeding operations.

(C) **PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULE:**

The proposed rules will assist in ensuring beneficial use of poultry waste while preventing adverse effects to the waters of the state of Oklahoma and shall benefit all citizens of the state.

(D) **DESCRIPTION OF THE PROBABLE IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS:**

Owners and operators of poultry feeding operations will benefit from new regulations relating to nutrient management plans.

(E) **PROBABLE COST AND BENEFITS TO AGENCY; SOURCE OF REVENUE FOR IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULE:**

There is no increased cost to the agency.

(F) **DETERMINATION OF WHETHER IMPLEMENTATION WILL HAVE ANY ECONOMIC IMPACT ON ANY POLITICAL SUBDIVISION OR REQUIRE THEIR COOPERATION IN IMPLEMENTING OR ENFORCING THE PROPOSED RULE:**

No economic effect on any political subdivision is anticipated by the proposed rule amendments.

(G) **DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULE WILL HAVE AN ADVERSE EFFECT ON SMALL BUSINESS AS PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT:**

No adverse impacts on small businesses are anticipated.

(H) **DETERMINATION OF WHETHER THERE ARE LESS COSTLY METHODS OR NON-REGULATORY METHODS FOR ACHIEVING THE PURPOSE OF THE PROPOSED RULE:**

No less costly or non-regulatory method is available.

(I) **DETERMINATION OF THE EFFECT OF THE PROPOSED RULE ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT:**

The proposed rules are consistent with the Oklahoma Registered Poultry Feeding Operations Act, Section 10-9.1 et seq. at Title 2 of the Oklahoma Statutes, which benefits the public health, safety, and environment. The proposed rules allow for the monitoring of poultry waste application to land or removal from these operations and assists in ensuring beneficial use of poultry waste while preventing adverse effects to the waters of the state of Oklahoma.

(J) **DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT:**

No detrimental effect upon the public health, safety, or environment is anticipated with the implementation of the proposed rule amendments.

(K) **DATE RULE IMPACT STATEMENT WAS PREPARED:**

This rule impact statement was prepared on November 21, 2022.



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

**CHAPTER 20. FORESTRY**

**SUBCHAPTER 3. RURAL FIRE PROTECTION PROGRAM FUND ACT  
PART 3. FINANCIAL ASSISTANCE PROGRAM**

**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 After program grant administration costs have been assessed, available ~~with funds shall~~ be divided by the total number of eligible fire departments.

**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.

(c) **Program grant administration costs.** For purposes of grant administration, the Department shall assess an annual indirect cost rate of ten percent (10%) on the total funds allocated for the Financial Assistance Program.



## RULE IMPACT STATEMENT

### TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 20. FORESTRY

- (A) **PURPOSE OF THE PROPOSED RULE:**  
The proposed rule amendments provide for assessment of certain grant administration costs and conform language.
- (B) **CLASSES OF PERSONS WHO MOST LIKELY WILL BE AFFECTED BY THE PROPOSED RULE AND ANY INFORMATION ON COST IMPACTS RECEIVED BY THE AGENCY FROM ANY PRIVATE OR PUBLIC ENTITIES:**  
The proposed rules affect fire departments receiving funds from the Department through the Financial Assistance Program. No cost impacts have been received to date.
- (C) **PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULE:**  
The Department's Financial Assistance Program will benefit from the proposed rules. Taxpayers will benefit from the proposed rules as the assessment will supplement funds appropriated to the Department by the Legislature.
- (D) **DESCRIPTION OF THE PROBABLE IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS:**  
Fire departments that participate in the Department's Financial Assistance Program will continue to be provided funds through the program.
- (E) **PROBABLE COST AND BENEFITS TO AGENCY; SOURCE OF REVENUE FOR IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULE:**  
No additional cost to the Department is anticipated by the proposed rules. Taxpayers will benefit from the proposed rules as the assessment will supplement funds appropriated to the Department by the Legislature.
- (F) **DETERMINATION OF WHETHER IMPLEMENTATION WILL HAVE ANY ECONOMIC IMPACT ON ANY POLITICAL SUBDIVISION OR REQUIRE THEIR COOPERATION IN IMPLEMENTING OR ENFORCING THE PROPOSED RULE:**  
No effect on any political subdivision is anticipated by the proposed rules.
- (G) **DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULE WILL HAVE AN ADVERSE EFFECT ON SMALL BUSINESS AS PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT:**  
The Department does not anticipate the proposed rules will have an adverse effect on small business.

(H) **DETERMINATION OF WHETHER THERE ARE LESS COSTLY METHODS OR NON-REGULATORY METHODS FOR ACHIEVING THE PURPOSE OF THE PROPOSED RULES:**

The Department is unaware of any non-regulatory methods to achieve the purpose of the proposed rules.

(I) **DETERMINATION OF THE EFFECT OF THE PROPOSED RULE ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:**

The proposed rules will not affect the public health, safety, and environment.

(J) **DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:**

The Department is not aware of any detrimental effect the proposed rules will have on public health, safety, and environment.

(K) **DATE RULE IMPACT STATEMENT WAS PREPARED:**

This rule impact statement was prepared on November 21, 2022.

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

**CHAPTER 30. CONSUMER PROTECTION**

**SUBCHAPTER 17. COMBINED PESTICIDE**

**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.

## **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 ~~must~~ 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.

An applicant may request a waiver of some or all of these requirements subject to a security deposit or other insurance requirements as determined by the Department.

(f) 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.

~~(f)~~ (g) Application of a pesticide specifically excluded on the insurance policy shall be considered working without a license.

## **PART 10. MINIMUM STANDARDS FOR PESTICIDES**

### **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.

## **PART 11. STANDARDS FOR APPLICATION OF PESTICIDE**

**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) (1) 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.  
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.

**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.

(j) Borate products shall not be used as a solitary termite treatment application. Borate products may be applied in addition to a liquid termite pretreatment or a new construction termite baiting system.

## **SUBCHAPTER 45. SCRAP METAL DEALERS**

### **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) A scrap metal dealer purchasing a vehicle from any person shall be required to record the make, model, license tag number and vehicle identification number of the purchased vehicle. A person selling a vehicle to a scrap metal dealer shall be required to present to the dealer the title of the vehicle or a certificate of ownership form, as approved by the Oklahoma Tax Commission and available at the Oklahoma Tax Commission or through a motor license agent, in addition to signing a declaration of ownership as required by Section 11-92 of Title 2 of the Oklahoma Statutes. The provisions of this subsection shall not apply to sales, purchases or other transfer of vehicles between scrap metal dealers and licensed automotive dismantlers and parts recycler.~~

~~(c)~~ Scrap Metal Dealers using an online recording method for all record keeping shall use Leads Online, [www.leadsonline.com](http://www.leadsonline.com) as the internet-based reporting method.

the 1990s, the number of people in the UK who are aged 65 and over has increased by 1.5 million, and the number of people aged 75 and over has increased by 1 million (Office for National Statistics 1999).

There is a growing awareness of the need to address the needs of older people in the community. The Department of Health (1999) has published a strategy for older people, which sets out a vision for the future of older people's services. The strategy is based on the principle of 'active ageing', which is the idea that older people should be able to live independently, participate in social activities, and remain healthy and active. The strategy also sets out a number of key objectives, including: to improve the health and well-being of older people; to support older people to live independently; to promote social inclusion for older people; and to ensure that older people are able to participate in decision-making about their own lives.

The strategy also sets out a number of key actions that need to be taken to achieve these objectives. These include: to improve the health and well-being of older people by providing access to health and social care services; to support older people to live independently by providing housing and financial support; to promote social inclusion for older people by providing opportunities for social activities; and to ensure that older people are able to participate in decision-making about their own lives by providing information and advice services.

The strategy also sets out a number of key indicators that will be used to measure progress towards these objectives. These include: the number of older people who are healthy and active; the number of older people who are able to live independently; the number of older people who are able to participate in social activities; and the number of older people who are able to participate in decision-making about their own lives.

The strategy also sets out a number of key challenges that need to be addressed in order to achieve these objectives. These include: the need to improve the health and well-being of older people; the need to support older people to live independently; the need to promote social inclusion for older people; and the need to ensure that older people are able to participate in decision-making about their own lives.

The strategy also sets out a number of key actions that need to be taken to address these challenges. These include: to improve the health and well-being of older people by providing access to health and social care services; to support older people to live independently by providing housing and financial support; to promote social inclusion for older people by providing opportunities for social activities; and to ensure that older people are able to participate in decision-making about their own lives by providing information and advice services.

The strategy also sets out a number of key indicators that will be used to measure progress towards these objectives. These include: the number of older people who are healthy and active; the number of older people who are able to live independently; the number of older people who are able to participate in social activities; and the number of older people who are able to participate in decision-making about their own lives.

The strategy also sets out a number of key challenges that need to be addressed in order to achieve these objectives. These include: the need to improve the health and well-being of older people; the need to support older people to live independently; the need to promote social inclusion for older people; and the need to ensure that older people are able to participate in decision-making about their own lives.

## RULE IMPACT STATEMENT

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

(A) **PURPOSE OF THE PROPOSED RULE:**

The proposed rule amendments add new pesticide application license categories; require examinations for certain applicants to comply with certain federal standards; provide for approval of liability self-insurance policy in certain circumstances; expand certain authority for enforcement of certain federal provisions; provide certain requirements for noncertified applicators; modify standards for pretreatment of concrete slabs; and update language to conform with statutory changes.

(B) **CLASSES OF PERSONS WHO MOST LIKELY WILL BE AFFECTED BY THE PROPOSED RULE AND ANY INFORMATION ON COST IMPACTS RECEIVED BY THE AGENCY FROM ANY PRIVATE OR PUBLIC ENTITIES:**

The proposed rule amendments affect consumers and persons regulated by the Department's combined pesticide and scrap metal dealer programs. No cost impacts have been received.

(C) **PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULE:**

Consumers and persons regulated by the Department's combined pesticide and scrap metal dealer programs will benefit from the proposed rule amendments.

(D) **DESCRIPTION OF THE PROBABLE IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS:**

The affected classes of persons will benefit from the proposed rule amendments.

(E) **PROBABLE COST AND BENEFITS TO AGENCY; SOURCE OF REVENUE FOR IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULE:**

No additional cost to the Department is anticipated by the proposed rule amendments.

(F) **DETERMINATION OF WHETHER IMPLEMENTATION WILL HAVE ANY ECONOMIC IMPACT ON ANY POLITICAL SUBDIVISION OR REQUIRE THEIR COOPERATION IN IMPLEMENTING OR ENFORCING THE PROPOSED RULE:**

No effect on any political subdivision is anticipated by the proposed rule amendments.

(G) **DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULE WILL HAVE AN ADVERSE EFFECT ON SMALL BUSINESS AS PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT:**

The proposed rule amendments will have no adverse effect on small business.

(H) **DETERMINATION OF WHETHER THERE ARE LESS COSTLY METHODS OR NON-REGULATORY METHODS FOR ACHIEVING THE PURPOSE OF THE PROPOSED RULES:**

The Department is unaware of any non-regulatory methods to achieve the purpose of the proposed rule amendments.

(I) **DETERMINATION OF THE EFFECT OF THE PROPOSED RULE ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:**

The proposed rule amendments will not detrimentally affect the public health, safety, and environment.

(J) **DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:**

The Department is not aware of any detrimental effect the proposed rules will have on public health, safety, and environment.

(K) **DATE RULE IMPACT STATEMENT WAS PREPARED:**

This rule impact statement was prepared on January 12, 2023.

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

### **CHAPTER 37. FOOD SAFETY**

#### **SUBCHAPTER 1. EGGS**

##### **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" (~~2021 Version~~).

#### **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) (~~2021 Revision~~), 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.

##### **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 (~~2021 Revision~~).

#### **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) (~~2021 Revision~~), 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, 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.

### **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), (~~2021 Revision~~) 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 poultry and poultry products do 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 poultry products 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 poultry is sold directly to the household consumer and transported by either the household consumer or the producer 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 products that are sound, clean and fit for human food, and each carcass, part or poultry product 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.

### **SUBCHAPTER 13. MILK AND MILK PRODUCTS**

#### **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.

#### **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);

~~(b) The Department 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.

#### **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.

### **SUBCHAPTER 15. ORGANIC PRODUCTS**

#### **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 (~~2021 Revision~~), 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.

### **SUBCHAPTER 17. PRODUCE SAFETY**

#### **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 (~~2021 Revision~~) regarding standards for the growing, harvesting, packing, and holding of produce for human consumption.

### **SUBCHAPTER 19. HOMEMADE FOOD**

#### **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;

**"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 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.

### **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, including the ServSafe Food Handler Training, approved by the Oklahoma Department of Agriculture, Food, and Forestry. Food safety training shall be available online 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.

**35:37-19-6. Registration fee**

(a) A homemade food product producer shall be assigned a registration number upon the payment of a fee of Ten Dollars (\$10.00) to the Department.

(b) A homemade food product producer may use an assigned registration number on product labels to comply with the provisions of OAC 35:37-19-4(a)(2).

the 1990s, the number of people with a mental health problem has increased by 50% (Mental Health Foundation 2000).

There is a growing awareness of the need to address the needs of people with mental health problems in the community. The Department of Health (1999) has set out a vision for the future of mental health services, which includes a focus on preventing mental health problems, supporting people with mental health problems in the community, and providing specialist services for people with severe mental health problems.

The Department of Health (1999) has also set out a number of key principles for the future of mental health services, which include: a focus on prevention, a focus on supporting people with mental health problems in the community, and a focus on providing specialist services for people with severe mental health problems.

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## **RULE IMPACT STATEMENT**

### **TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 37. FOOD SAFETY**

**(A) PURPOSE OF THE PROPOSED RULE:**

The proposed rule amendments update citations to the Code of Federal Regulations and other procedures, regulations, and references; provide a new permit fee for certain dairy farms and provide exception; provide new rules for incidental sales of raw milk; add definitions; modify sale, delivery, and labeling requirements for homemade food products; and provide for certain registration of homemade food product producers.

**(B) CLASSES OF PERSONS WHO MOST LIKELY WILL BE AFFECTED BY THE PROPOSED RULE AND ANY INFORMATION ON COST IMPACTS RECEIVED BY THE AGENCY FROM ANY PRIVATE OR PUBLIC ENTITIES:**

The proposed rule amendments affect persons regulated by the Department's Food Safety program. No cost impacts have been received.

**(C) PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULE:**

Persons relying on current citations and those who wish to produce and sell milk, milk products, and homemade food products through the Department's Food Safety program will benefit from the proposed rule amendments.

**(D) DESCRIPTION OF THE PROBABLE IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS:**

Persons relying on the Department's Food Safety program will be provided with current legal citations and new rules for the production and sale of milk, milk products, and homemade food products.

**(E) PROBABLE COST AND BENEFITS TO AGENCY; SOURCE OF REVENUE FOR IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULE:**

No additional cost to the Department is anticipated by the proposed rule amendments.

**(F) DETERMINATION OF WHETHER IMPLEMENTATION WILL HAVE ANY ECONOMIC IMPACT ON ANY POLITICAL SUBDIVISION OR REQUIRE THEIR COOPERATION IN IMPLEMENTING OR ENFORCING THE PROPOSED RULE:**

No effect on any political subdivision is anticipated by the proposed rule amendments.

**(G) DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULE WILL HAVE AN ADVERSE EFFECT ON SMALL BUSINESS AS PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT:**

It is not anticipated that the proposed rule amendments will have an adverse effect on small business.

(H) **DETERMINATION OF WHETHER THERE ARE LESS COSTLY METHODS OR NON-REGULATORY METHODS FOR ACHIEVING THE PURPOSE OF THE PROPOSED RULES:**

The Department is unaware of any non-regulatory methods to achieve the purpose of the proposed rule amendments.

(I) **DETERMINATION OF THE EFFECT OF THE PROPOSED RULE ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:**

The proposed rule amendments will have a positive effect on the public health by limiting the sale of certain milk products.

(J) **DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:**

The Department is not aware of any detrimental effect the proposed rules will have on public health, safety, and environment.

(K) **DATE RULE IMPACT STATEMENT WAS PREPARED:**

This rule impact statement was prepared on November 21, 2022.

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

**CHAPTER 40. MARKET DEVELOPMENT**

**SUBCHAPTER 17. AGRITOURISM**

**35:40-17-2. Definitions**

"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.

**35:40-17-3. Eligibility and registration**

(a) Agritourism ~~activities~~ 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 ~~activity~~ agritourism designated area may be an eligible ~~agritourism activity~~ for registration regardless of whether the participant is required to pay to participate in the activity.

(c) An agritourism ~~activity~~ designated area shall be evaluated by the Department prior to registration.

(d) When evaluating an agritourism ~~activity~~ 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 ~~facility hosting the~~ agritourism ~~activity~~ designated area complies with federal, state, and local regulations for health, safety, sanitation, and zoning.

(2) Whether the agritourism professional or ~~facility hosting the~~ agritourism ~~activity~~ designated area carries liability insurance.

(3) Whether the agritourism professional or ~~facility hosting the~~ agritourism ~~activity~~ designated area has complied with the requirements of the Oklahoma Tax Commission.

(e) Each ~~facility hosting an eligible~~ agritourism ~~activity~~ designated area shall be open to the public seasonally and specify and post regular business hours and adhere to the same.

(f) Each ~~facility hosting an eligible~~ agritourism ~~activity~~ designated area shall be maintained and in good repair.

(g) The Department may refuse to register or revoke the registration of an agritourism ~~activity~~ designated area for failure to meet the ~~standards~~ requirements of the Agritourism Program.

(h) If the Department finds that a proposed agritourism activity 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 activity designated area.

**35:40-17-4. Additional requirements for hunting facilities**

In addition to the other eligibility requirements of this subchapter, hunting facilities shall include ~~lodging and at least one meal per day provided or furnished on site to be registered as an agritourism activity;~~

- (1) Lodging; and
- (2) A guide service or information on self-guided hunts that includes property details, owner expectations, safety guidelines, and eligible harvests.

**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 activity designated area. Breweries shall produce products for consumption at the site of the agritourism designated area.

**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.

**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.

**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.

**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.

**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.

**SUBCHAPTER 21. OKLAHOMA HEALTHY FOOD FINANCING PROGRAM**

**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.

**SUBCHAPTER 23. MADE IN OKLAHOMA**

**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.**

### **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.

### **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
- ~~(3)~~ (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.

### **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.

### **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.

### **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.

### **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.

**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.



## **RULE IMPACT STATEMENT**

### **TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 40. MARKET DEVELOPMENT**

**(A) PURPOSE OF THE PROPOSED RULE:**

The proposed rule amendments add definitions; modify eligibility requirements of the Agritourism Program; modify eligibility requirements of the Oklahoma Healthy Food Financing Program; modify eligibility and application requirements of the Made in Oklahoma Program; and conform language.

**(B) CLASSES OF PERSONS WHO MOST LIKELY WILL BE AFFECTED BY THE PROPOSED RULE AND ANY INFORMATION ON COST IMPACTS RECEIVED BY THE AGENCY FROM ANY PRIVATE OR PUBLIC ENTITIES:**

The proposed rules primarily affect those persons participating in the Agritourism Program, the Oklahoma Healthy Food Financing Program, and the Made in Oklahoma Program.

**(C) PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULE:**

Persons who participate in the Agritourism Program, the Oklahoma Healthy Food Financing Program, and the Made in Oklahoma Program will benefit from the proposed rules.

**(D) DESCRIPTION OF THE PROBABLE IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS:**

Persons who participate in the Agritourism Program, the Oklahoma Healthy Food Financing Program, and the Made in Oklahoma Program will be impacted by modifications to the programs.

**(E) PROBABLE COST AND BENEFITS TO AGENCY; SOURCE OF REVENUE FOR IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULE:**

There is no increased cost to the agency.

**(F) DETERMINATION OF WHETHER IMPLEMENTATION WILL HAVE ANY ECONOMIC IMPACT ON ANY POLITICAL SUBDIVISION OR REQUIRE THEIR COOPERATION IN IMPLEMENTING OR ENFORCING THE PROPOSED RULE:**

No economic effect on any political subdivision is anticipated by the proposed rule amendments.

**(G) DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULE WILL HAVE AN ADVERSE EFFECT ON SMALL BUSINESS AS PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT:**

No adverse impacts on small businesses are anticipated.

**(H) DETERMINATION OF WHETHER THERE ARE LESS COSTLY METHODS OR NON-REGULATORY METHODS FOR ACHIEVING THE PURPOSE OF THE PROPOSED RULE:**

No less costly or non-regulatory method is available.

(I) **DETERMINATION OF THE EFFECT OF THE PROPOSED RULE ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT:**

No effect on the public health, safety, and environment is anticipated.

(J) **DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT:**

No detrimental effect upon the public health, safety, or environment is anticipated with the implementation of the proposed rule amendments.

(K) **DATE RULE IMPACT STATEMENT WAS PREPARED:**

This rule impact statement was prepared on November 21, 2022.

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

**CHAPTER 44. AGRICULTURE POLLUTANT DISCHARGE ELIMINATION  
SYSTEM**

**SUBCHAPTER 1. AGRICULTURE ENVIRONMENTAL PERMITTING AND AGPDES**

**PART 1. GENERAL PROVISIONS**

**35:44-1-3. Date of federal regulations incorporated [REVOKED]**

~~When reference is made to 40 CFR it means, unless otherwise specified, Title 40 of the Code of Federal Regulations (2021 Revision).~~

**SUBCHAPTER 3. PERMIT CONDITIONS AND REQUIREMENTS**

**35:44-3-3. Date of federal regulations incorporated [REVOKED]**

~~When reference is made to 40 CFR it means, unless otherwise specified, Title 40 of the Code of Federal Regulations (2021 Revision).~~





## **RULE IMPACT STATEMENT**

### **TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 44. AGRICULTURE POLLUTANT DISCHARGE ELIMINATION SYSTEM**

- (A) **PURPOSE OF THE PROPOSED RULE:**  
The proposed rule amendments revoke obsolete language.
- (B) **CLASSES OF PERSONS WHO MOST LIKELY WILL BE AFFECTED BY THE PROPOSED RULE AND ANY INFORMATION ON COST IMPACTS RECEIVED BY THE AGENCY FROM ANY PRIVATE OR PUBLIC ENTITIES:**  
The proposed rules affect persons regulated by the Department's Agriculture Pollutant Discharge Elimination System (AgPDES) program. No cost impacts have been received to date.
- (C) **PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULE:**  
Persons who rely on current citations for the Department's AgPDES program will benefit from the proposed rules.
- (D) **DESCRIPTION OF THE PROBABLE IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS:**  
Persons who rely on the Department's AgPDES program will be provided with current legal citations in the proposed rules.
- (E) **PROBABLE COST AND BENEFITS TO AGENCY; SOURCE OF REVENUE FOR IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULE:**  
No additional cost to the Department is anticipated by the proposed rules.
- (F) **DETERMINATION OF WHETHER IMPLEMENTATION WILL HAVE ANY ECONOMIC IMPACT ON ANY POLITICAL SUBDIVISION OR REQUIRE THEIR COOPERATION IN IMPLEMENTING OR ENFORCING THE PROPOSED RULE:**  
No effect on any political subdivision is anticipated by the proposed rules.
- (G) **DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULE WILL HAVE AN ADVERSE EFFECT ON SMALL BUSINESS AS PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT:**  
The proposed rules will have no adverse effect on small business.
- (H) **DETERMINATION OF WHETHER THERE ARE LESS COSTLY METHODS OR NON-REGULATORY METHODS FOR ACHIEVING THE PURPOSE OF THE PROPOSED RULES:**  
The Department is unaware of any non-regulatory methods to achieve the purpose of the proposed rules.

(I) **DETERMINATION OF THE EFFECT OF THE PROPOSED RULE ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:**

The proposed rules will not affect the public health, safety, and environment.

(J) **DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:**

The Department is not aware of any detrimental effect the proposed rules will have on public health, safety, and environment.

(K) **DATE RULE IMPACT STATEMENT WAS PREPARED:**

This rule impact statement was prepared on November 21, 2022.

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

### CHAPTER 50. AQUACULTURE

#### 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 ~~fifteen~~ ten dollars (~~\$15.00~~ \$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 ~~five~~ eight dollars (~~\$5.00~~ \$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 ~~two~~ five dollars ~~and fifty cents~~ (~~\$2.50~~ \$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 ~~twenty-five~~ ten dollars (~~\$25.00~~ \$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, ~~and~~ 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 15<sup>th</sup> of each year.

(1) The renewal application shall include the following:

(A) A renewal fee of ~~twenty-five~~ ten dollars (~~\$25.00~~ \$10.00). Any renewal fee received after the annual renewal deadline of January 15<sup>th</sup> shall be assessed a late fee of ~~twenty-five~~ ten dollars (~~\$25.00~~ \$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 ~~five~~ eight dollars (~~\$5.00~~ \$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 ~~two~~ five dollars ~~and fifty cents~~ (~~\$2.50~~ \$5.00) and shall be available from the Department.

the 1990s, the number of people in the UK who are aged 65 and over has increased from 10.5 million to 12.5 million, and the number of people aged 75 and over has increased from 4.5 million to 6.5 million (Office for National Statistics 2000). The number of people aged 65 and over is projected to increase to 15.5 million by 2020, and the number of people aged 75 and over to 8.5 million (Office for National Statistics 2000). The increase in the number of people aged 65 and over is due to a combination of factors, including a decline in the birth rate, a decline in the death rate, and a decline in the rate of immigration. The increase in the number of people aged 75 and over is due to a combination of factors, including a decline in the birth rate, a decline in the death rate, and a decline in the rate of immigration.

The increase in the number of people aged 65 and over has led to a corresponding increase in the number of people who are dependent on others for their care. In 1990, there were 1.5 million people aged 65 and over who were dependent on others for their care. By 2000, this number had increased to 2.5 million, and it is projected to increase to 3.5 million by 2020 (Office for National Statistics 2000). The increase in the number of people who are dependent on others for their care is due to a combination of factors, including a decline in the birth rate, a decline in the death rate, and a decline in the rate of immigration.

The increase in the number of people who are dependent on others for their care has led to a corresponding increase in the number of people who are living in care homes. In 1990, there were 1.5 million people aged 65 and over who were living in care homes. By 2000, this number had increased to 2.5 million, and it is projected to increase to 3.5 million by 2020 (Office for National Statistics 2000). The increase in the number of people who are living in care homes is due to a combination of factors, including a decline in the birth rate, a decline in the death rate, and a decline in the rate of immigration.

The increase in the number of people who are living in care homes has led to a corresponding increase in the number of people who are living in care homes who are dependent on others for their care. In 1990, there were 1.5 million people aged 65 and over who were living in care homes who were dependent on others for their care. By 2000, this number had increased to 2.5 million, and it is projected to increase to 3.5 million by 2020 (Office for National Statistics 2000). The increase in the number of people who are living in care homes who are dependent on others for their care is due to a combination of factors, including a decline in the birth rate, a decline in the death rate, and a decline in the rate of immigration.

The increase in the number of people who are living in care homes who are dependent on others for their care has led to a corresponding increase in the number of people who are living in care homes who are dependent on others for their care. In 1990, there were 1.5 million people aged 65 and over who were living in care homes who were dependent on others for their care. By 2000, this number had increased to 2.5 million, and it is projected to increase to 3.5 million by 2020 (Office for National Statistics 2000). The increase in the number of people who are living in care homes who are dependent on others for their care is due to a combination of factors, including a decline in the birth rate, a decline in the death rate, and a decline in the rate of immigration.

The increase in the number of people who are living in care homes who are dependent on others for their care has led to a corresponding increase in the number of people who are living in care homes who are dependent on others for their care. In 1990, there were 1.5 million people aged 65 and over who were living in care homes who were dependent on others for their care. By 2000, this number had increased to 2.5 million, and it is projected to increase to 3.5 million by 2020 (Office for National Statistics 2000). The increase in the number of people who are living in care homes who are dependent on others for their care is due to a combination of factors, including a decline in the birth rate, a decline in the death rate, and a decline in the rate of immigration.

## **RULE IMPACT STATEMENT**

### **TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 50. AQUACULTURE**

- (A) **PURPOSE OF THE PROPOSED RULE:**  
The proposed rule amendments modify and increase fees for certain licenses and decals to reflect statutory requirements and the increased cost of labor and supplies required to manage the Aquaculture program and modify certain licensing requirements.
- (B) **CLASSES OF PERSONS WHO MOST LIKELY WILL BE AFFECTED BY THE PROPOSED RULE AND ANY INFORMATION ON COST IMPACTS RECEIVED BY THE AGENCY FROM ANY PRIVATE OR PUBLIC ENTITIES:**  
The proposed rules affect persons regulated by the Department's Aquaculture programs. No cost impacts have been received to date.
- (C) **PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULE:**  
Persons who rely on the Department's Aquaculture program will benefit from the proposed rules. Taxpayers will benefit from the rules as the cost of the Aquaculture program will be borne by the person or entity requesting services or supplies rather than funds appropriated to the Department by the Legislature. Persons relying on aquaculture or aquaculture products free of disease will benefit from the continuing administration of Departments' Aquaculture program.
- (D) **DESCRIPTION OF THE PROBABLE IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS:**  
Persons participating in the Aquaculture program will pay modified and modestly increased fees.
- (E) **PROBABLE COST AND BENEFITS TO AGENCY; SOURCE OF REVENUE FOR IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULE:**  
The increased fees will defray the actual cost of managing the Aquaculture program currently borne by the Department.
- (F) **DETERMINATION OF WHETHER IMPLEMENTATION WILL HAVE ANY ECONOMIC IMPACT ON ANY POLITICAL SUBDIVISION OR REQUIRE THEIR COOPERATION IN IMPLEMENTING OR ENFORCING THE PROPOSED RULE:**  
No effect on any political subdivision is anticipated by the proposed rules.
- (G) **DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULE WILL HAVE AN ADVERSE EFFECT ON SMALL BUSINESS AS PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT:**

The fee increases are modest and are not anticipated to have a significant impact on persons participating in the Aquaculture program.

(H) **DETERMINATION OF WHETHER THERE ARE LESS COSTLY METHODS OR NON-REGULATORY METHODS FOR ACHIEVING THE PURPOSE OF THE PROPOSED RULES:**

The Department is unaware of any non-regulatory methods to achieve the purpose of the proposed rules.

(I) **DETERMINATION OF THE EFFECT OF THE PROPOSED RULE ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:**

The proposed rules will not affect the public health, safety, and environment.

(J) **DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:**

The Department is not aware of any detrimental effect the proposed rules will have on public health, safety, and environment.

(K) **DATE RULE IMPACT STATEMENT WAS PREPARED:**

This rule impact statement was prepared on November 21, 2022.

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

### CHAPTER 55. COMMERCIAL PET BREEDERS AND ANIMAL SHELTERS

#### 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.

~~(c) When reference is made to 9 C.F.R. it means, unless otherwise specified, the volume of 9 C.F.R. as published on July 1 (2021).~~

#### **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.

(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, including spay or neuter procedures, 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.

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## RULE IMPACT STATEMENT

### TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 55. COMMERCIAL PET BREEDERS AND ANIMAL SHELTERS

- (A) **PURPOSE OF THE PROPOSED RULE:**  
The proposed rule amendments delete obsolete language and provide procedure for seizure and impoundment of certain animals.
- (B) **CLASSES OF PERSONS WHO MOST LIKELY WILL BE AFFECTED BY THE PROPOSED RULE AND ANY INFORMATION ON COST IMPACTS RECEIVED BY THE AGENCY FROM ANY PRIVATE OR PUBLIC ENTITIES:**  
The proposed rules affect persons regulated by the Department's Commercial Pet Breeders and Animal Shelters licensing program. No cost impacts have been received to date.
- (C) **PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULE:**  
Persons who rely on the Department's Commercial Pet Breeders and Animal Shelters licensing program will benefit from the proposed rules.
- (D) **DESCRIPTION OF THE PROBABLE IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS:**  
Persons who rely on the Department's Commercial Pet Breeders and Animal Shelters licensing program will be provided with current legal citations and procedures in the proposed rules.
- (E) **PROBABLE COST AND BENEFITS TO AGENCY; SOURCE OF REVENUE FOR IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULE:**  
No additional cost to the Department is anticipated by the proposed rules.
- (F) **DETERMINATION OF WHETHER IMPLEMENTATION WILL HAVE ANY ECONOMIC IMPACT ON ANY POLITICAL SUBDIVISION OR REQUIRE THEIR COOPERATION IN IMPLEMENTING OR ENFORCING THE PROPOSED RULE:**  
No effect on any political subdivision is anticipated by the proposed rules.
- (G) **DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULE WILL HAVE AN ADVERSE EFFECT ON SMALL BUSINESS AS PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT:**  
The Department does not anticipate the proposed rules will have an adverse effect on small business.

(H) **DETERMINATION OF WHETHER THERE ARE LESS COSTLY METHODS OR NON-REGULATORY METHODS FOR ACHIEVING THE PURPOSE OF THE PROPOSED RULES:**

The Department is unaware of any non-regulatory methods to achieve the purpose of the proposed rules.

(I) **DETERMINATION OF THE EFFECT OF THE PROPOSED RULE ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:**

The Department anticipates the proposed rules will positively affect the public health, safety, and environment by providing procedures for seizure and impoundment of certain animals.

(J) **DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:**

The Department is not aware of any detrimental effect the proposed rules will have on public health, safety, and environment.

(K) **DATE RULE IMPACT STATEMENT WAS PREPARED:**

This rule impact statement was prepared on November 21, 2022.