

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

Thursday, January 25, 2024
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 6, 2023.
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
- M. Legislative Preview – JanLee Rowlett

7. Consideration and Proposed Action on Purchases/Contracts
8. Consideration and Proposed Action on Cases Resolved by Stipulations
Agricultural Environmental Management Services
Faith Lee, 6229 W. Portals Ave., Fresno, California
Timothy Rogers, 16135 E. Red Fuller Road, Tahlequah, Oklahoma
Eddie & Richard Robinson, P. O. Box 917, Holdenville, Oklahoma

Consumer Protection Services

7-Eleven, 9001 S. May, Oklahoma City, Oklahoma
7-Eleven, 9001 S. May, Oklahoma City, Oklahoma
Rid-A-Weed, 184206 N. 2590 Road, Walters, Oklahoma
Reynolds Aviation, 1860 CR 4536, Winnsboro, Texas
Tractor Supply, 1504 S. W. 27th Street, El Reno, Oklahoma
TrueGreen LP OKC, 7016 Camille Ave., Oklahoma City, Oklahoma

****Possible Executive Session (if approved by the required number of members present):**
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9. Consideration and Proposed Action on Cases Resolved by Consent Order
Agricultural Environmental Management Services
Cal-Maine Foods, Inc., 7859 Highway 1777 South, Sulphur, Oklahoma

Consumer Protection Services

Robison Wildlife Solutions, LLC, 9401 S. Harrah Road, Newalla, Oklahoma
Wheeler Brothers Grain Co., 760 N. Roberts Ave., Kingfisher, Oklahoma

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10. Consideration and Proposed Action on Proposed Permanent Rules
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 3. Animal Health Reportable Diseases [AMENDED]
Subchapter 5. Biological Products and Laboratories [AMENDED]

Subchapter 9. Livestock Special Sales
Part 3. Livestock Special Sales [AMENDED]
Subchapter 11. Importation and Exportation of Animals [AMENDED]
Part 1. General [AMENDED]
Part 13. Equine Piroplasmiasis [REVOKED]
Subchapter 13. Testing And Inspection for Disease and Release of Livestock at Auction Markets [AMENDED]
Subchapter 15. Equine Infectious Anemia (EIA)
Part 1. General Provisions [AMENDED]
Part 3. Procedures [AMENDED]
Part 5. Change Of Ownership of Equidae [AMENDED]
Part 7. Requirements For Approved Markets [AMENDED]
Part 9. Equine Exhibitions [AMENDED]
Subchapter 17. Bovine and Bison Brucellosis
Part 1. Definitions and General Provisions [AMENDED]
Subchapter 18. Equine Piroplasmiasis [NEW]
Subchapter 19. Poultry Regulations [AMENDED]
Subchapter 22. Swine Pseudorabies and Brucellosis
Part 1. General Provisions [AMENDED]
Part 5. Requirements For a Validated/Qualified Herd [AMENDED]
Part 7. Requirements For Swine Exhibitions [AMENDED]
Subchapter 38. Bovine Trichomoniasis [AMENDED]
Subchapter 40. Bovine Tuberculosis
Part 1. Definitions [AMENDED]
Subchapter 44. Farmed Cervidae [AMENDED]
Subchapter 47. Chronic Wasting Disease (CWD) in Cervids
Part 3. Herd Certification Standards [AMENDED]
Subchapter 49. Miscellaneous Animal Diseases [AMENDED]

WATER QUALITY

Title 35. Oklahoma Department of Agriculture, Food, And Forestry
Chapter 17. Water Quality
Subchapter 5. Registered Poultry Feeding Operations
35:17-5-1 Purpose [AMENDED]
35:17-5-3 Registration, Nutrient Management Plan (NMP) required [AMENDED]
35:17-5-3.1. Setbacks for new or expanding construction of poultry barns [AMENDED]
35:17-5-3.2. Cancellation of poultry feeding operation registration [AMENDED]
35:17-5-4. Soil and litter tests required [AMENDED]
35:17-5-5. Nutrient Management Plan [AMENDED]
35:17-5-7. Record keeping [AMENDED]
Subchapter 9. Agricultural Compost Facilities
35:17-9-2. Definitions [AMENDED]
35:17-9-3. Permit provisions and application [AMENDED]
35:17-9-4. Siting of composting facility [AMENDED]
35:17-9-6. Leachate and storm water control [AMENDED]
35:17-9-9. Closure of licensed compost facility retention structures [AMENDED]

FORESTRY

Title 35. Oklahoma Department of Agriculture, Food, And Forestry

Chapter 20. Forestry

Subchapter 3. Rural Fire Protection Program Fund Act

Part 5. Matching Grant Program [AMENDED]

CONSUMER PROTECTION

Title 35. Oklahoma Department of Agriculture, Food, And Forestry

Chapter 30. Consumer Protection

Subchapter 4. Thousand Cankers Disease [REVOKED]

Subchapter 6. Emerald Ash Borer Quarantine [REVOKED]

Subchapter 13. Imported Fire Ant Quarantine [AMENDED]

Subchapter 17. Combined Pesticide

Part 1. Commercial, and Non-Commercial, and Private Categories of Pesticide Application [AMENDED]

Part 6. Pesticidal Product Producing Establishments [AMENDED]

Part 9. Minimum Standards for Contracts and Keeping of Records [AMENDED]

Part 12. Minimum Residue Levels for Termiticides Applied to Soil and Permitted Tolerances for Pesticide Tank Mix and Concentrate Sample Analysis [AMENDED]

Part 18. Minimum Standards for The Use of Termite Baits and Baiting Systems for New Construction and Existing Structures [AMENDED]

Part 21. Standards for Disposal of Pesticide and Pesticide Containers [AMENDED]

Subchapter 24. Oklahoma Industrial Hemp Program [AMENDED]

Subchapter 30. Soil Amendment [AMENDED]

Subchapter 31. Lime [AMENDED]

FOOD SAFETY

Title 35. Oklahoma Department of Agriculture, Food, And Forestry

Chapter 37. Food Safety

Subchapter 5. Poultry Products Inspection

Part 1. General Provision [AMENDED]

Subchapter 17. Produce safety [AMENDED]

Subchapter 19. Homemade Food [AMENDED]

MARKET DEVELOPMENT

Title 35. Oklahoma Department of Agriculture, Food, And Forestry

Chapter 40. Market Development

Subchapter 25. Oklahoma Winter Storm Grant Program

35:40-25-1. Purpose [NEW]

35:40-25-2. Definitions [NEW]

35:40-25-3. Applicant eligibility [NEW]

35:40-25-4. Evaluation criteria [NEW]

35:40-25-5. Application requirements [NEW]

WATER QUALITY STANDARDS IMPLEMENTATION PLAN

Title 35. Oklahoma Department of Agriculture, Food, And Forestry

Chapter 45. Water Quality Standards Implementation Plan

Subchapter 1. Water Quality Standards Implementation Plan

35:45-1-1. Section I - Statutory authority, definitions, standards, jurisdiction, beneficial uses and protocols [AMENDED]
35:45-1-2. Pertinent definitions, abbreviations, and acronyms [AMENDED]
35:45-1-3. General statement of policy; responsibility for WQSIP document [AMENDED]
35:45-1-4. Pertinent water quality standards [AMENDED]
35:45-1-7. Animal waste programs [AMENDED]
35:45-1-8. Pesticide program [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 1. Licensing

35:55-1-4. License application [AMENDED]

35:55-1-6. Inspections [AMENDED]

35:55-1-8. Fees [AMENDED]

35:55-1-9 Annual report [REVOKED]

Subchapter 3. Standards Of Care

35:55-3-2. Watering [AMENDED]

Subchapter 7. Recordkeeping And Sales

35:55-7-1. Records [AMENDED]

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11. Next Board meeting scheduled for **Wednesday, March 13, 2024**, 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 6, 2023

The Oklahoma State Board of Agriculture met in regular session at 10:00 a.m., December 6, 2023, in Oklahoma City. 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: Brent Bolen
Blayne Arthur
Clay Burtrum
Nocona Cook
Joe Farris

Others Present:

Michaela Lembeck, Executive Secretary
JanLee Rowlett, Deputy Commissioner
Troy Marshall, Director, Agricultural Statistics
Teena Gunter, Director, Agricultural Environmental
Management Services & Office of General Counsel
Scott Yates, Director, Food Safety
Scott Alls, Director, Wildlife Services
Meriruth Cohenour, Director, Market Development
Lee Benson, Public Information Officer
Craig Marquardt, Forestry, ODAFF
Eva Samples, Administrative Division
Mitch Broiles, Administrative Division
Melissa Hudspeth, Administrative Division
Deborah Torres, Office of the Governor

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 19, 2023, as presented.

The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Cook	Aye
Farris	Abstained

The motion carried.

A motion was made by Mr. Farris, seconded by Mr. Cook, to approve the division reports as submitted.

The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Cook	Aye
Farris	Aye

The motion carried.

A motion was made by Mr. Bolen, seconded by Mr. Cook, to approve the following purchases/contracts as submitted.

The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Cook	Aye
Farris	Aye

The motion carried.

A motion was made by Mr. Burtrum, seconded by Mr. Bolen, to approve the following travel as submitted.

The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Cook	Aye
Farris	Aye

The motion carried.

A motion was made by Mr. Burtrum, seconded by Mr. Cook, to approve the Proposed Action on Cases Resolved by Stipulations as submitted.

Agricultural Environmental Management Services

David H. Lemon, Route 3 Box 669, Westville, Oklahoma

Consumer Protection Services

Green Gro, 12324 E. 86th St. N., Owasso, Oklahoma,

Pedro Santamaria, 117335 CR 536, Rockwall, Texas

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The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Cook	Aye
Farris	Aye

The motion carried.

A motion was made by Mr. Cook, seconded by Mr. Bolen, to approve the Proposed Action on Cases Resolved by Final Order as submitted.

Consumer Protection Services

Terminix, 9340 Pole Road, Moore, 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.”

The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Cook	Aye
Farris	Aye

The motion carried.

There is no old business presented for the Board to take action upon. Mr. Bolen moved, Mr. Burtrum seconded, that the meeting be adjourned at 11:22 a.m.

By _____
President

ATTEST: _____
Executive Secretary

DECEMBER 6, 2023 BOARD MEETING

PURCHASES/CONTRACTS

ANIMAL INDUSTRY

Farmed Cervid CWD Cooperative Agreement - \$248,703.00 –This cooperative agreement addresses the funding priority to conduct novel research on, or implement, whole genome predictive genetics in farmed cervids. Purchase white tail deer semen, contract services to artificially inseminate deer, insemination equipment, genetic testing and hire two ODAFF personnel for management of the project. The \$248,703.00 will be revenue from USDA to ODAFF, and the \$206,900 will be expenditures from ODAFF to Whitetails of Oklahoma. The difference, \$42,197 will be for ODAFF administrative costs.

FORESTRY SERVICES

FY 24- \$15,000

Purchase parts and labor to repair John Deere Tractor 6410. The tractor is inoperable and requires extensive repairs to address significant leaks and loose axles. This is a significant safety issue, and the tractor is required to perform essential field tasks to grow conservation seedlings. **Justification:** Without these repairs, the seedlings will not be grown or harvested for landowners.

FY24- \$55,000

Purchase a spray irrigation boom, turbine drive traveler and monitoring system for the Forest Regeneration Center (FRC). Purchasing this irrigation boom will replace the obsolete irrigation system that is beyond repair for the conservation containerized seedlings grown at the nursery. This system will provide direct and consistent irrigation for the seedlings to ensure their survival and ensure that we can offer healthy containerized seedlings to landowners. This purchase will be reimbursed by Revegetation/National Seed Strategy Funding Grant. **Justification:** Without this purchase, we will not be able to irrigate the containerized conservation seedlings and we will fail to meet the needs of landowners.

FY24- \$45,000

Purchase 650,000 Loblolly seedlings from Arkansas Forestry to provide Oklahoma landowners seedlings is necessary for the regeneration program to continue to provide an adaptable and reliable genetic seed source for reforestation efforts of private landowners in SE Oklahoma. Due to this year's harsh weather events and overwhelming consumer demand, the regeneration program has a limited inventory of its superior genetic seedlings to offer for sale to landowners that wish to purchase seedlings that are highly resilient to the often harsh and diverse Oklahoma climate. **Justification:** Without this purchase private landowners would have to rely on lesser genetic material that are not genetically selected for S.E. Oklahoma which could potentially have a negative effect on possible reforestation efforts.

FY24- \$50,000

This funding is provided to the State of Oklahoma as part of the FY 2020 (FEMA/DHS) Homeland Security Grant Program for the purchase of radio and satellite communications equipment for the Agriculture Trailer. This equipment will upgrade the Ag Trailer to allow communications with response agencies during disaster response. **Justification:** This communication's equipment is needed to equip the Ag Trailer for response and communications during natural and man-made disasters.

FY24- \$80,000

Oklahoma Forestry Services will be providing financial assistance to landowners to manage invasive plant species currently present on the land. By participating in this program, landowners will be able to remove non-native invasive plants on their lands. **Justification:** Landowners will maintain healthy forests across the landscape that are resilient to current and future forest health threats such as pests, diseases, and wildfire. Funds spent on this program will be federally reimbursed.

FY24- \$10,000

Purchase parts to repair retaining wall behind the Antlers shop building. All labor will be provided by rangers. We plan to remove the rotted and crumbling railroad ties that made up the original retaining wall and replace them with concrete blocks. This will also require a lot of dirt work to clear the site for placement of the blocks and back-filling behind the new wall. **Justification:** If the wall is not repaired the ground the shop sits on will continue to wash out until it is no longer adequate for supporting the building. This would lead to structural instability and damage at best, and eventually potential building collapse at worst. Funding was included in our current FY Budget.

FY24- \$24,000

Purchase wildland firefighting boots and firefighting personal gear for OFS personnel.

Justification: OFS is required to supply OFS firefighters with mandatory personal protective equipment (PPE) and gear for their protection and care while on duty.

FY 24 – Forest Inventory and Analysis research vehicle \$55,040.48 (State Matching Cost Share – FIA Grant)

Purchase of a ½ ton truck equipped with 4-wheel drive, skid plates, tow hooks, 10-ply all terrain tires, etc. for transportation and off-road access to remote forest research plots. **Justification:** The truck will be used daily in forest health monitoring, wildfire risk assessment, and timber inventory purposes and will anchor the efforts of foresters as they traverse the state's forests from McCurtain County to Cimarron County, often solo. Funding for this purchase matches a cost-share in salary/supplies from the US Forest Service – FY23 FIA Grant.

FY 24 – Forest Inventory and Analysis all-terrain vehicle (ATV) \$13,797.71 (State Matching Cost Share – FIA Grant)

Purchase of an all-terrain vehicle equipped with 4 wheel drive, skid plates, winch, safety features, etc for off-road access to remote forest research plots. **Justification:** The ATV will be used in remote forest health monitoring, wildfire risk assessment, and timber inventory purposes and will multiply the efforts of foresters as they visit some of the state's most wild and distant forests. Funding for this purchase matches a cost-share in salary/supplies from the US Forest Service – FY23 FIA Grant.

MARKET DEVELOPMENT

FY2024 – advertising – Good Day Tulsa – Made in Oklahoma TV segments - \$14,000

FY2024 – Stacey Mauch – Veteran or Young Farmer/Ag Enhancement & Diversification Grant - \$10,000.00

FY2024 – Ben Birdwell – Veteran or Young Farmer/Ag Enhancement & Diversification Grant - \$10,000.00

FY2024 – Huai – Veteran or Young Farmer/Ag Enhancement & Diversification Grant - \$10,000.00

OFFICE OF GENERAL COUNSEL

Contract for an OGC Administrative Law Judge for FY 2024, effective 07/1/2023 - 6/30/2024. The Contract not to exceed \$10,000 to perform services as a Hearing Officer/Administrative Law Judge (ALJ) in cases assigned, in accordance with a signed agreement on file with the Oklahoma Department of Agriculture Food, and Forestry. The vendor will perform services at an hourly rate of \$125.00/hour.

Oklahoma Department of Agriculture, Food & Forestry

January 25, 2024, Board Report

Administrative Services



Administrative Services

- First floor renovations continue:
 - Market Development cubicles are next on the schedule
 - Kitchen sink and vanity replaced in Market Development
- Staffing
 - Front Office Administrative Technician
 - New employee started January 16th
 - Accountant
 - New employee started January 22nd

Administrative Services – Investigative Services

INVESTIGATIVE SERVICES ACTIVITIES

NOVEMBER 2023



OKLAHOMA



INVESTIGATIONS		NOVEMBER	YTD	FYTD
LIVESTOCK		1	22	9
FIRE			6	2
PROPERTY		2	33	12
TIMBER			5	1
AGENCY ASSISTS	ODAFF		1	1
AGENCY ASSISTS	EXTERNAL		7	5
OTHER		1	20	10
TOTAL INVESTIGATIONS OPENED		4	94	40
CLOSED PENDING ADDITIONAL INFORMATION			19	7
NO CRIME		2	36	13
NO PROSECUTION			0	0
CLOSED - ASSIST CASE		1	10	7
PRESENTED TO DISTRICT ATTORNEY FOR PROSECUTION		2	16	8
REFERRED FOR ADMINISTRATIVE ACTION			0	0
TOTAL INVESTIGATIONS COMPLETED		5	81	35
COUNTS FILED			17	5
VALUE OF LOSSES - ALL CRIMES		\$16,000	\$1,175,221	\$547,670
RECOVERED LOSSES - ALL CRIMES		\$392,000	\$1,122,650	\$807,250
NUMBER OF CATTLE REPORTED STOLEN		2	348	136
NUMBER OF CATTLE RECOVERED		2	80	55



Administrative Services – Investigative Services

INVESTIGATIVE SERVICES ACTIVITIES DECEMBER 2023



OKLAHOMA



INVESTIGATIONS		DECEMBER	YTD	FYTD
LIVESTOCK		1	23	10
FIRE		1	7	3
PROPERTY			33	12
TIMBER			5	1
AGENCY ASSISTS	ODAFF		1	1
AGENCY ASSISTS	EXTERNAL	1	8	6
OTHER			20	10
TOTAL INVESTIGATIONS OPENED		3	97	43
CLOSED PENDING ADDITIONAL INFORMATION		5	24	12
NO CRIME			36	13
NO PROSECUTION			0	0
CLOSED - ASSIST CASE			10	7
PRESENTED TO DISTRICT ATTORNEY FOR PROSECUTION		1	17	9
REFERRED FOR ADMINISTRATIVE ACTION			0	0
TOTAL INVESTIGATIONS COMPLETED		6	87	41
COUNTS FILED			17	5
VALUE OF LOSSES - ALL CRIMES		\$50,000	\$1,225,221	\$597,670
RECOVERED LOSSES - ALL CRIMES		\$48,000	\$1,170,650	\$855,250
NUMBER OF CATTLE REPORTED STOLEN		70	418	206
NUMBER OF CATTLE RECOVERED		10	90	65

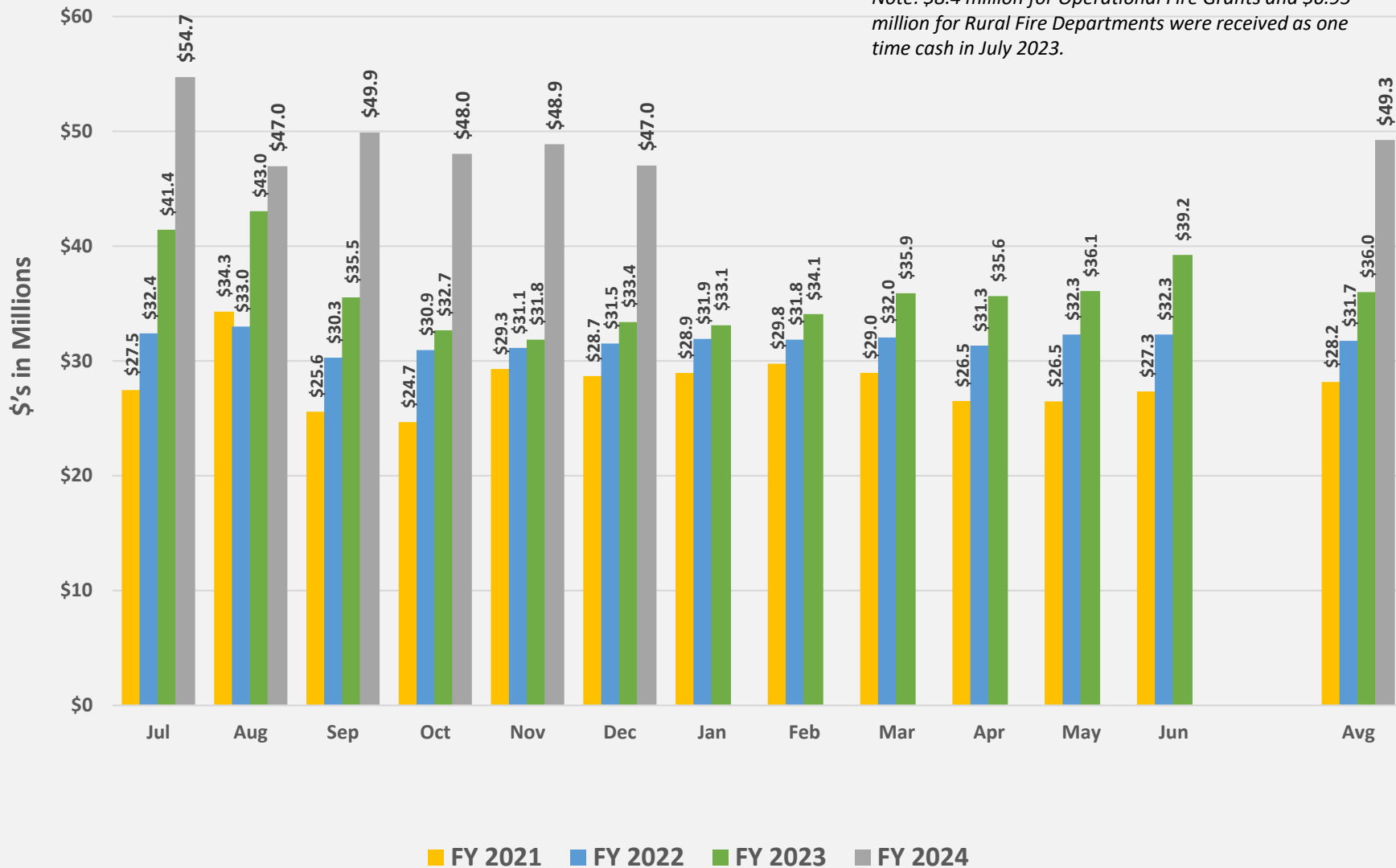




Available Cash at Month End

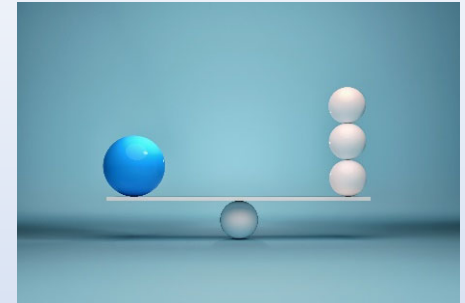
Months Ending: July 2020 – December 2023

per Allotment Budget & Available Cash Report Fiscal Year 2021-2024



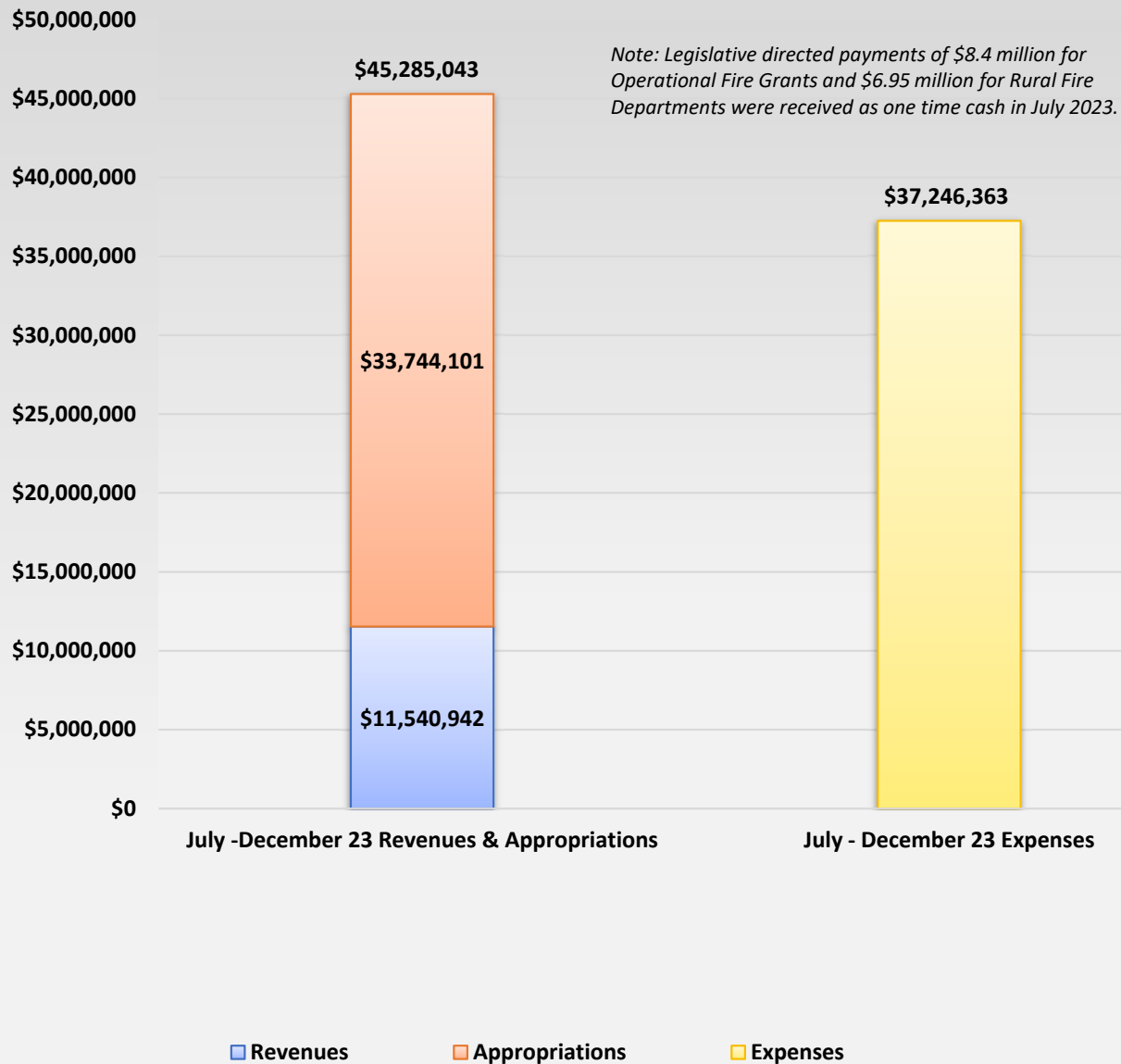
Note: The amounts above include fund 700, Commodity Storage Indemnity Fund, which had a balance of \$11,501,168 as of 12/31/2023.

Administrative Services - Finance



- Cash balance as of 12/31/2023 was \$47 million compared to \$33.4 million as of 12/31/2022
 - Increase of \$13.6 million from the prior year and is primarily attributed to the following:
 - \$7.4 million increase in appropriated cash for increases in legislative directed payments includes funding for:
 - Rural fire departments for the replacement of equipment and gear burned during fires
 - Rural fire coordinators
 - Funds encumbered for purchases that are delayed due to supply chain issues
 - Timing of payments

Total Revenues, Appropriations and Expenses July – December 2023

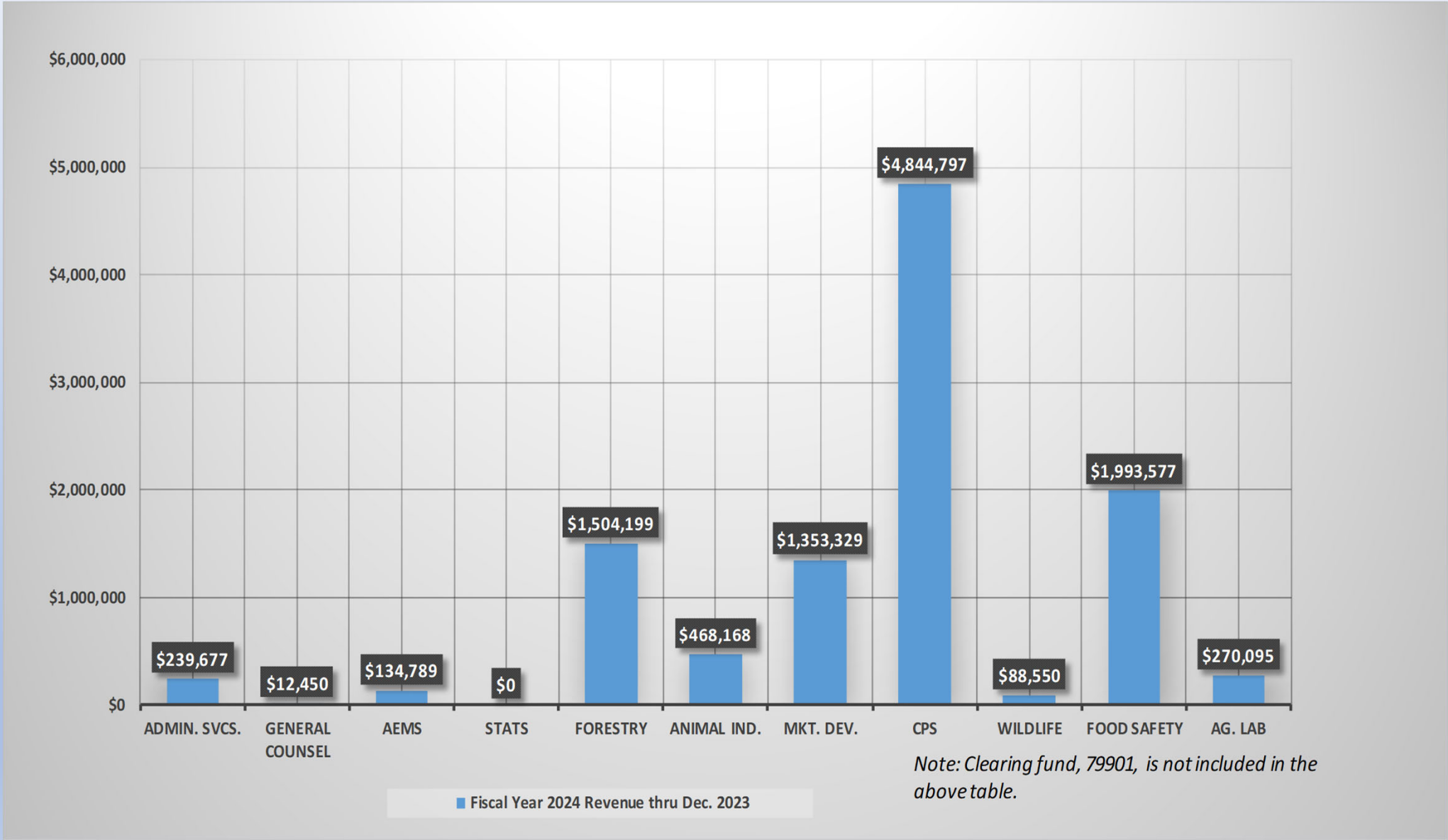




Oklahoma Department of Agriculture, Food and Forestry		
Revenue Summary by Division		
Division	Dec 2023 Revenue	Fiscal Year 2024 Revenue thru Dec. 2023
Admin. Svcs.	48,325	239,677
General Counsel	3,925	12,450
AEMS	2,386	134,789
Stats		-
Forestry	179,049	1,504,199
Animal Ind.	28,073	468,168
Mkt. Dev.	472,324	1,353,329
CPS	427,558	4,844,797
Wildlife	400	88,550
Food Safety	518,515	1,993,577
Ag. Lab	50,155	270,095
Division Total (see division receipts graph on next slide)	1,730,710	10,909,631
Commodity Storage Indemnity	76,907	201,927
Appropriations	2,995,017	27,754,067
Agency Total	4,802,633	38,865,624
<i>Note: Clearing fund, 79901, is not included in the above table.</i>		

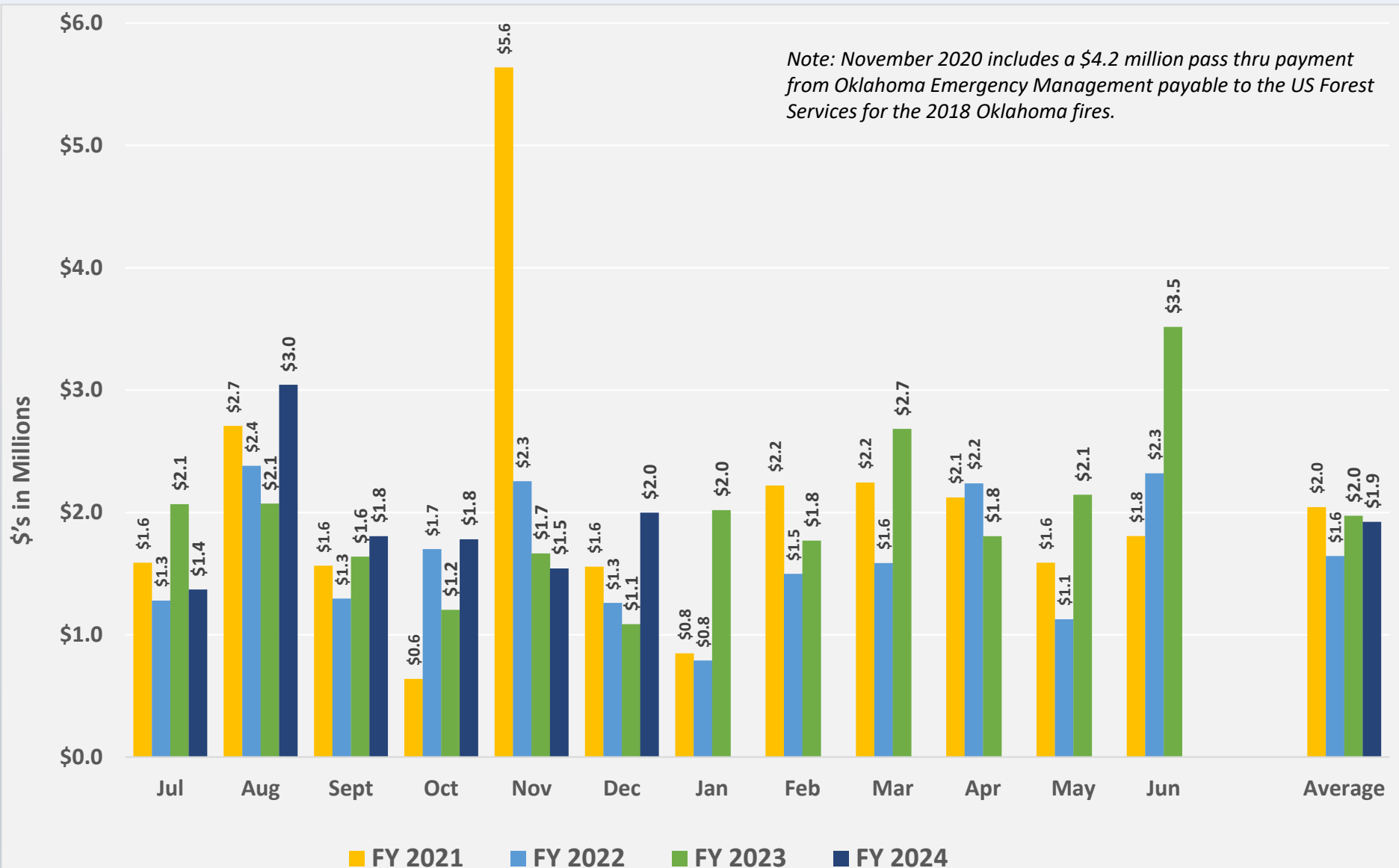


Revenue By Division July – December 2023



Total Revenue by Month July 2020 – December 2023

Note: November 2020 includes a \$4.2 million pass thru payment from Oklahoma Emergency Management payable to the US Forest Services for the 2018 Oklahoma fires.



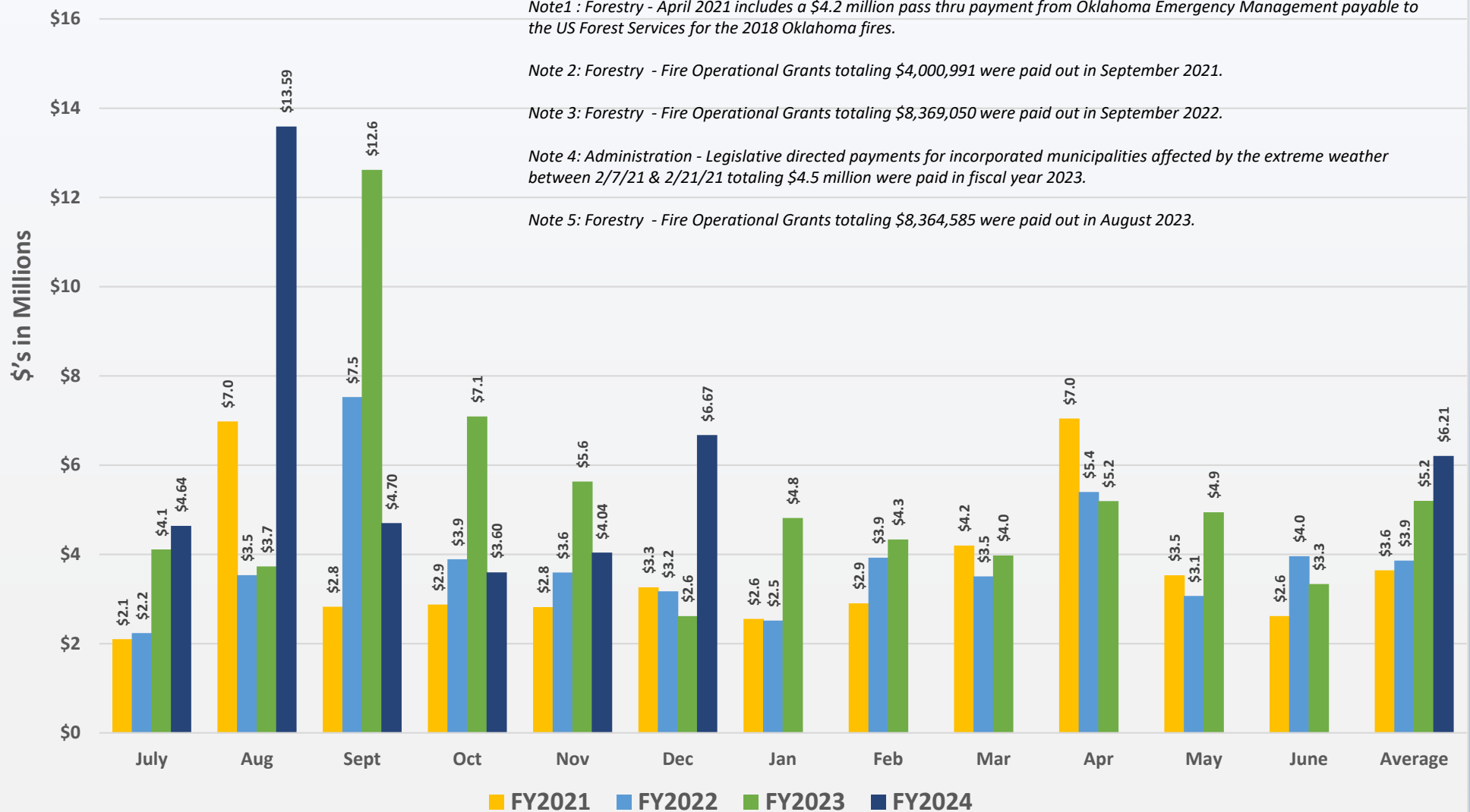
Administrative Services - Finance

- Revenues (excluding appropriations) for fiscal year 2024 thru December 2023 were \$11.5 million
- Revenues for the same period last fiscal year were \$9.7 million
 - This is an increase of approximately \$1.8 million and is primarily due to:
 - An increase in federal reimbursements
 - An increase in plant industry licenses and fees
 - Timing of payments received

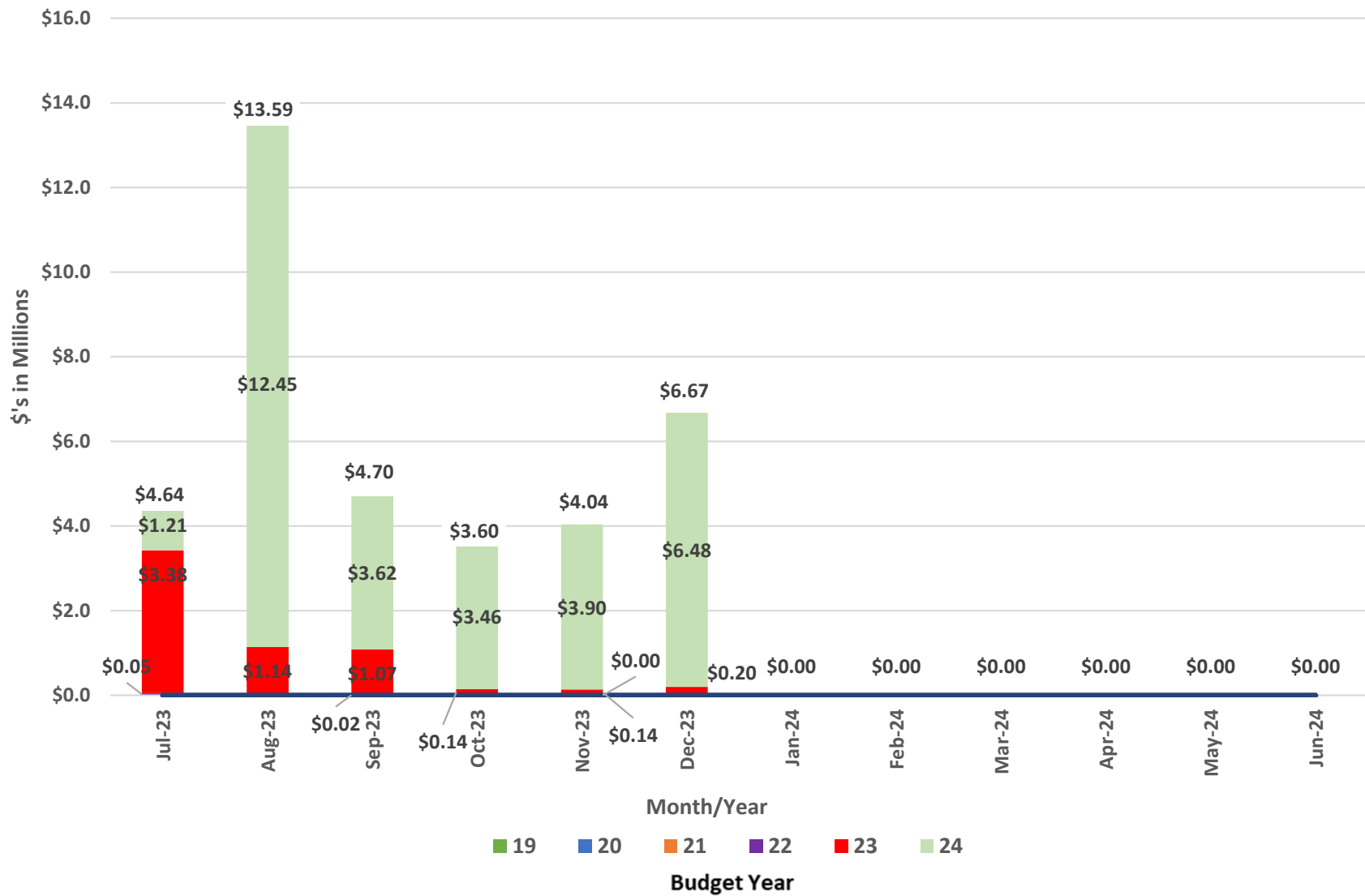


Total Expenses by Month

July 2020 – December 2023



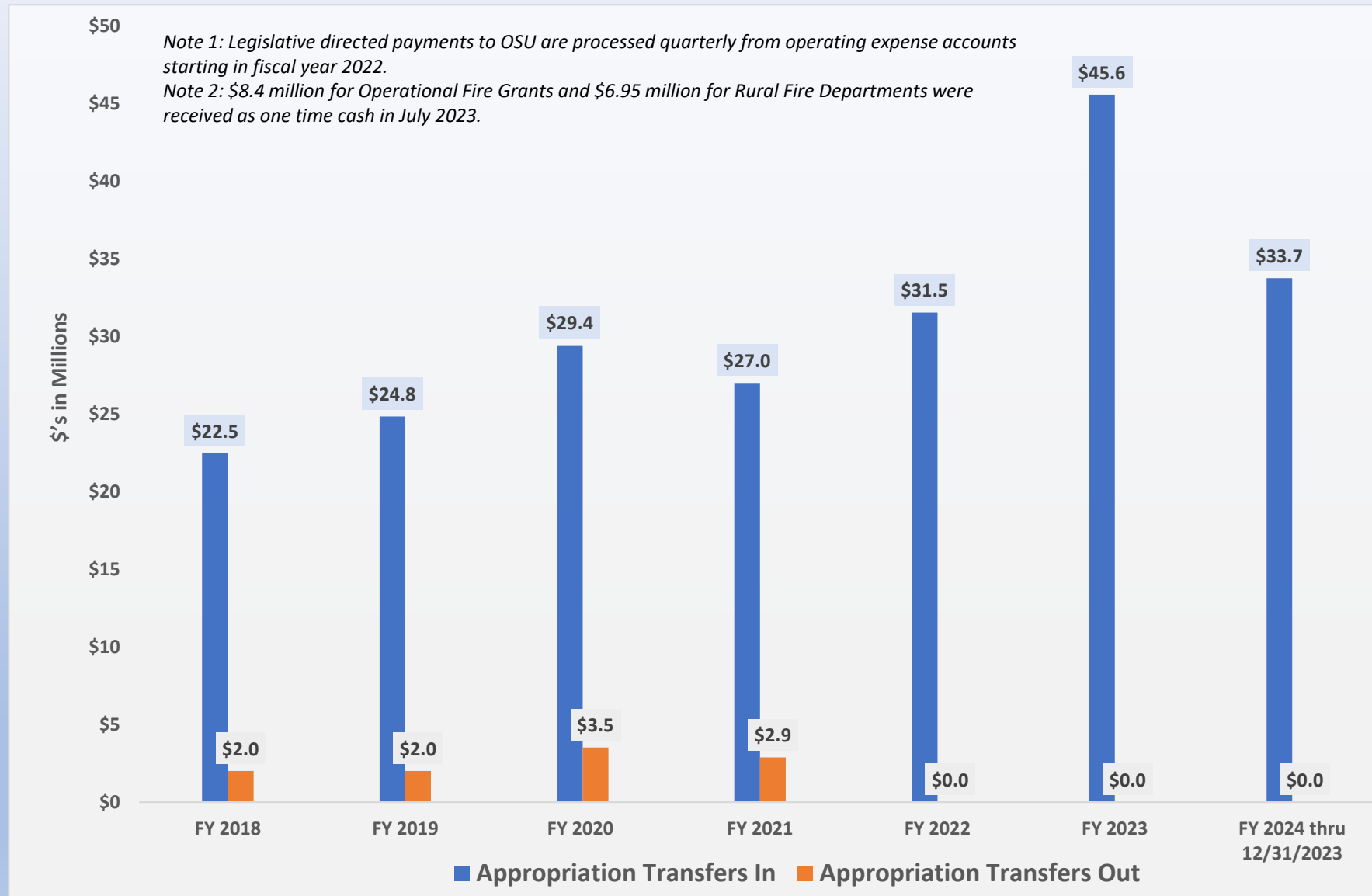
FY 2024 Total Expenses by Month with Budget Year

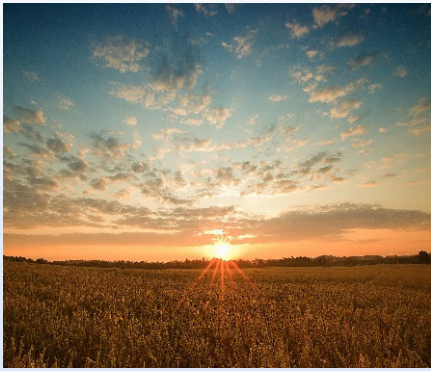


Administrative Services - Finance

- Total expenses for fiscal year 2024 thru November 2023 were \$37.2 million compared to \$35.8 million for the same period last fiscal year
- This was an increase of \$1.4 million and is primarily attributed to:
 - The timing of legislative directed payments
 - Local Food for School grant reimbursements
 - Increased labor costs

Appropriations FY 2018 thru December 2023





Commodity Storage Indemnity Investment Report

As of December 31, 2023			
Investments with Office of State Treasurer			
Cash Management Account:			\$11,501,168
<u>FY-2024 Receipts</u>			
		Current Month	YTD
		-----	-----
New		-	-
Interest Revenue		76,907	201,927
Reinsurance		-	-
ODAFF Support Services		-	(50,000)
Recovered Salvage		-	-
Elevator Salvage		-	-
Matured Long Term Investments		-	-
		-----	-----
	TOTALS	76,907	151,927
		=====	=====

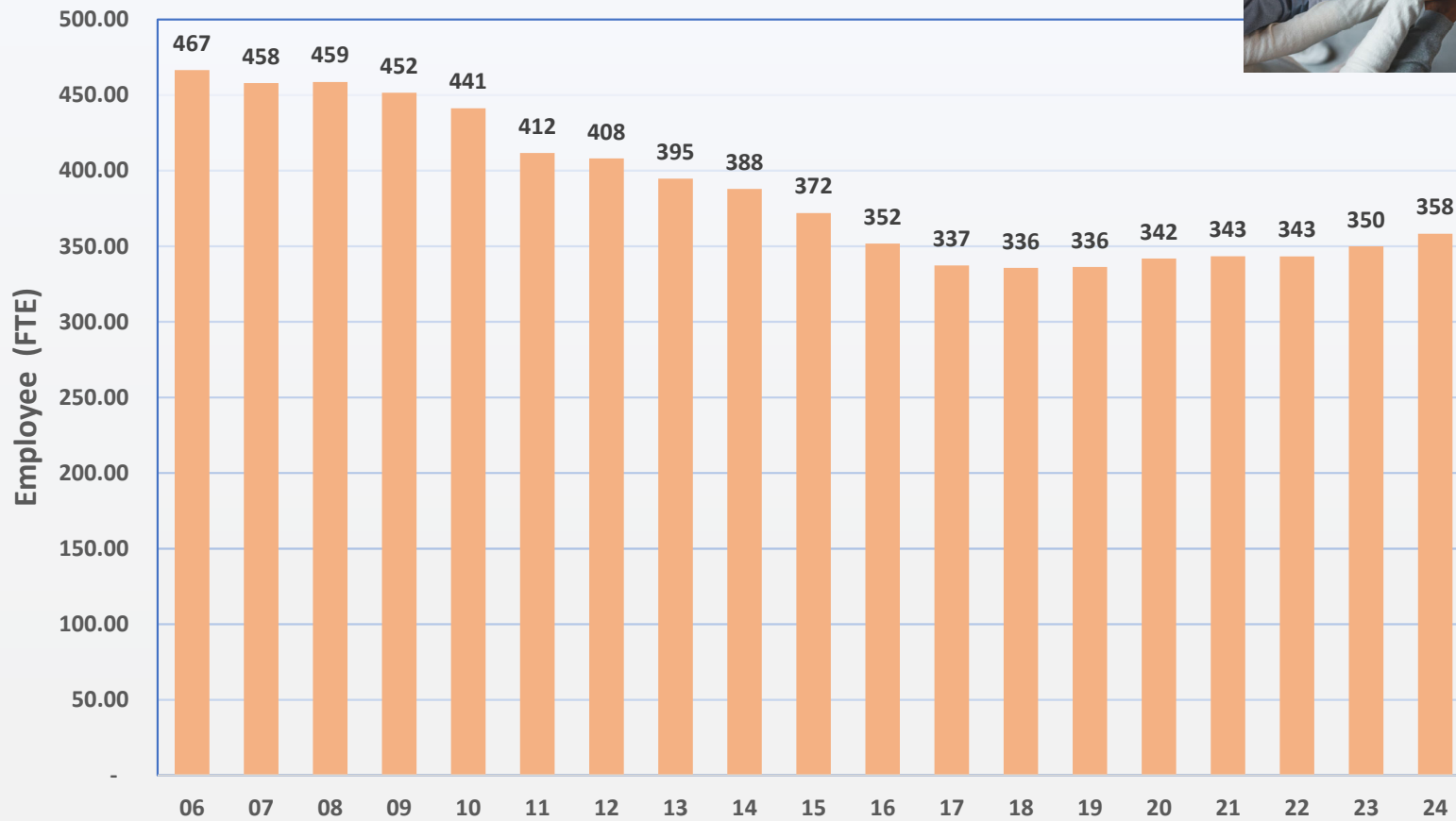
Oklahoma Department of Agriculture, Food & Forestry
Monthly Budget Report - Budget Year 2024
As of December 31, 2023
Fiscal Year 2024 Annual Budget to Actuals for Budget Year 2024 thru December 31, 2023

Object Code	Account Description	Annual Budget	Expenditures	Encumbrances & Pre Encumbrances	Available Budget
511	Salary Expense	22,838,350	9,743,458	18,665,430	(5,570,538)
512	Insur.Prem-Hlth-Life,etc	5,558,363	2,073,931	396,212	3,088,221
513	FICA-Retirement Contributions	5,597,514	2,283,847	1	3,313,666
515	Professional Services	3,169,160	728,666	2,303,717	136,777
519	Inter/Intra Agy Pmt-Pers Svcs	30,000	12,850	14,356	2,794
521	Travel - Reimbursements	518,530	95,209	-	423,321
522	Travel - Agency Direct Pmts	495,863	179,444	-	316,419
531	Misc. Administrative Expenses	1,355,557	354,116	256,138	745,302
532	Rent Expense	690,348	320,525	369,329	494
533	Maintenance & Repair Expense	1,987,084	452,399	333,491	1,201,194
534	Specialized Sup & Mat.Expense	1,585,302	411,704	587,912	585,686
535	Production,Safety,Security Exp	160,843	16,564	6,995	137,284
536	General Operating Expenses	313,154	58,362	-	254,792
537	Shop Expense	584,517	253,518	57,439	273,560
541	Office Furniture & Equipment	3,356,536	245,067	891,724	2,219,746
542	Library Equipment-Resources	982	134	-	848
543	Lease Purchases	1,697,171	986,851	710,320	0
552	Scholar.,Tuition,Incentive Pmt	340	663	-	(323)
554	Program Reimb,Litigation Costs	18,421,725	9,838,737	5,713,848	2,869,140
555	Pmts-Local Gov't,Non-Profits	12,189,156	2,108,990	1,225,952	8,854,214
559	Assistance Pymts to Agencies	3,594,000	750,000	2,807,932	36,068
561	Loans,Taxes,Other Disbursemnts	650	-	-	650
564	Merchandise For Resale	150,150	-	150,000	150
601	AFP Encumbrances	-	-	2,191,848	(2,191,848)
810	Req Only	-	-	1,370,666	(1,370,666)
	Operating Totals	84,295,295	30,915,034	38,053,310	15,326,951

Oklahoma Department of Agriculture, Food & Forestry
Monthly Budget Report - Budget Year 2024
As of December 31, 2023
Fiscal Year 2024 Annual Budget to Actuals for Budget Year 2024 thru December 31, 2023

Class Funding	Class Fund Description	Annual Budget	Expenditures	Encumbrances & Pre Encumbrances	Available Budget
19401	GRF- Duties	35,940,203	13,800,647	16,958,988	5,180,568
20500	Rural Fire Defense Eqp Rev Fd	199,449	-	190,000	9,449
21000	Agriculture Revolving Fund	25,204,040	6,793,520	15,643,852	2,766,668
22500	Enhancemnt & Diversificatn Fnd	250,000	74,268	99,734	75,999
23000	Okla Pet Overpopulation Fund	35,000	35,000	-	-
23500	Animal Friendly Revolving Fund	35,000	15,000	20,000	-
24000	Unwanted Pesticide Disp Fund	350,000	98,299	251,702	-
24500	Rural Fire Revolving Fund	50,000	626	-	49,374
25500	Ag. Evidence Law Enforce Fund	4,000	-	-	4,000
25600	Ok Viticulture Enology Revl Fd	439,275	90,631	172,646	175,998
26200	Poultry Grading Revolving Fund	1,154,297	528,068	522,811	103,418
28500	Milk & Milk Prod Inspec Rev Fd	471,032	141,181	281,345	48,506
28600	Ag In The Classrm Educ Rvlv Fd	24,000	-	-	24,000
28700	Healthy Food Financing Revl Fd	100,000	10,000	10,000	80,000
42000	Specialty Crop Federal Funds	1,140,000	250,995	884,718	4,288
43000	Farm and Ranch Stress Alliance	225,000	16,586	89,292	119,121
43500	Local Food for Schools Co-op	2,900,000	624,220	2,073,890	201,890
57901	Duties	15,773,999	8,435,995	854,333	6,483,671
	Totals	84,295,295	30,915,034	38,053,310	15,326,951

Employee FTE Totals Fiscal Year FY 2006 – FY 2024



Note 1: FTE listed for fiscal year 23 was based on the FTE from August 15, 2022 thru June 30, 2023 as the Workday HR system was implemented on August 15, 2022.

Note 2: FTE listed for fiscal year 24 was based on the FTE for July – December 2023.

Fiscal Year

JANUARY 2024 BOARD REPORT
AGRICULTURE LABORATORY SERVICES
(November and December 2023 Activities)

QUALITY MANAGEMENT SECTION: (Daniel Tripp, QA Manager)

The Memorandum of Understanding (MOU) with the Wisconsin Department of Agriculture, Trade and Consumer Protection for meat chemistry testing is now being reviewed by Wisconsin's legal department. Testing included in this MOU are protein, fat, moisture, and salt content. This will not be for routine sample testing but rather for a rare, emergency situation. Having the means to perform these tests, either in-house or through an external laboratory, is required by the USDA.

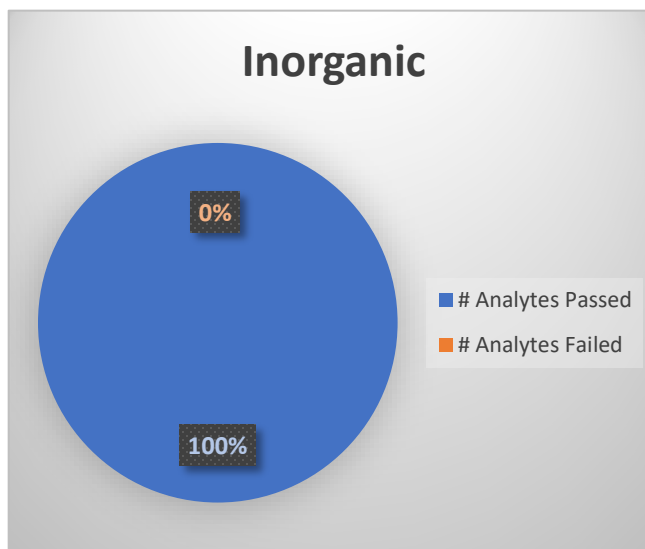
The Food and Dairy Laboratory is in the final month of performing its' Shelf-life Extension Study for the Molecular Assay 2 – *Salmonella* Kit. Once complete reagents can be used up to six months after kit has been unsealed, as opposed to 60 days.

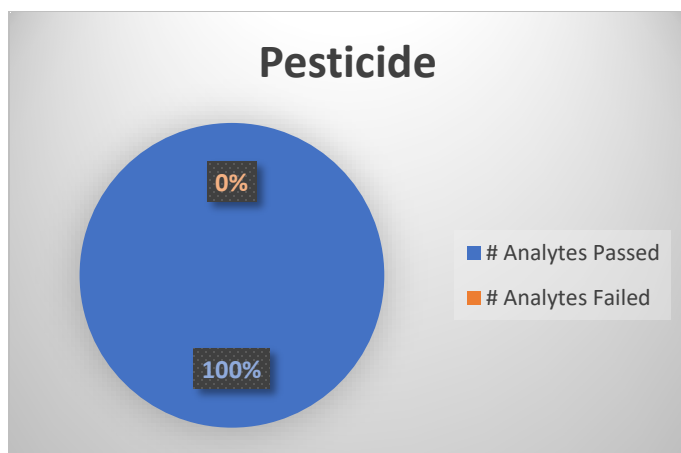
The Bentley Soma-Count FC used by the Food and Dairy Laboratory has undergone a thorough instrument verification. The Bentley Soma-Count FC performs Somatic Cell Counts (SCC) in raw milk samples, an FDA milk testing requirement.

PT Results

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

Inorganic	
# Analytes Results Received	4
# Analytes Passed	4
# Analytes Failed	0





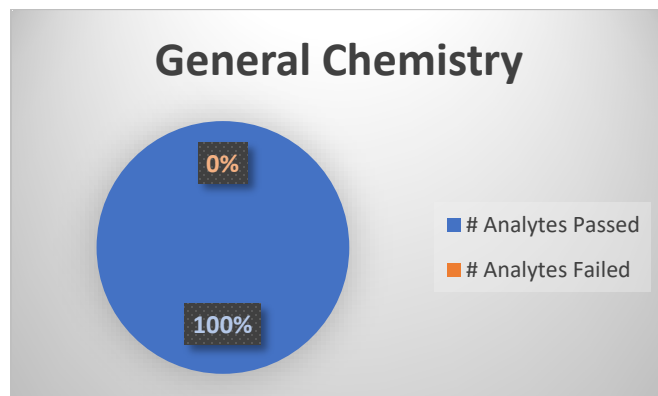
Pesticide	
# Analytes Results Received	6
# Analytes Passed	6
# Analytes Failed	0

In December the QA Manager started an Internal Audit for the Food and Dairy Laboratory. The audit will consist of reviewing running logs and QC checks; sample review, to include log-in, testing documentation, miscellaneous supporting documentation, SOPs, and work instruction; the review of remaining projects and shadow Laboratory personnel.

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.

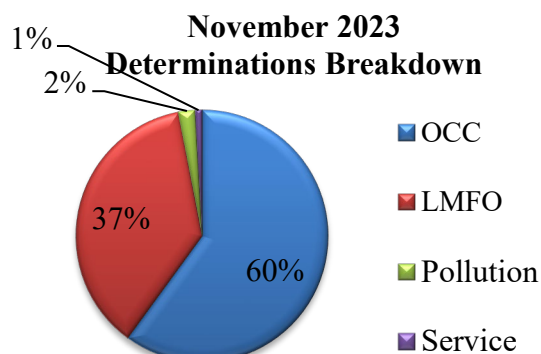
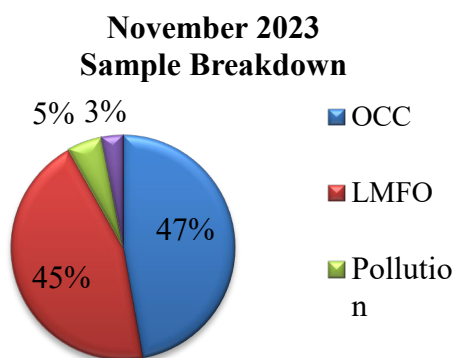
General Chemistry	
# Analytes Results Received	19
# Analytes Passed	19
# Analytes Failed	0



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

In November the Section completed 197 samples consisting of 1426 determinations, with the following breakdown:

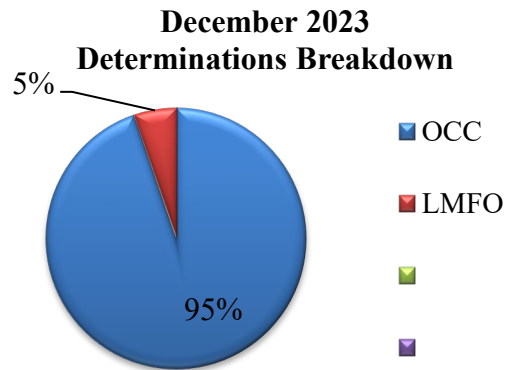
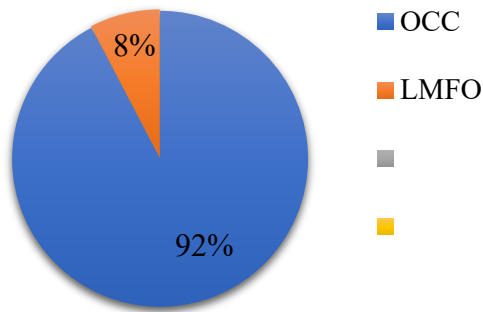
OCC	93	856
LMFO	88	528
Pollution	10	30
Service	6	12
Total	197	1426



In December of 2023 the Inorganic Chemistry Section completed 104 samples consisting of 912 determinations, with the following breakdown:

OCC	96	864
LMFO	8	48
Total	104	912

**December 2023
Sample Breakdown**



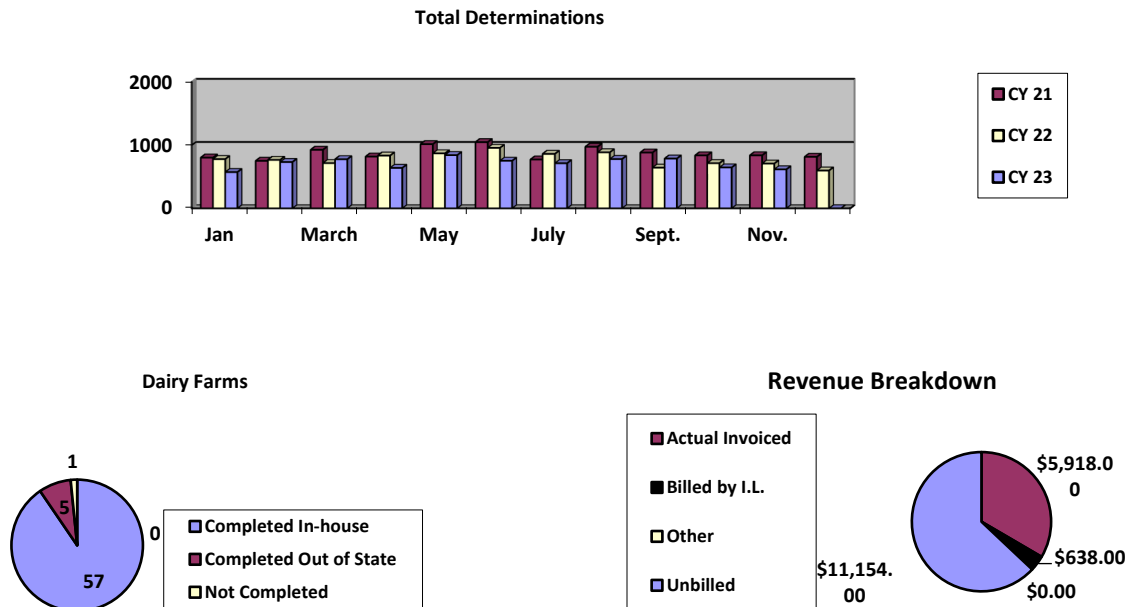
DAIRY/FOOD SAFETY SECTION: (Sharon Swyear, Environmental/Chemical Laboratory Scientist IV)

The month of November was a typical testing month for the Section. Only one dairy was not tested, and one dairy is dry. The Section tested thirteen meat samples and seven meat waters this month and was able to isolate *E. coli* from one meat sample and either *E. coli* or *Shigella* from a second sample in October. Isolated colonies were taken to the State Health Laboratory in Stillwater. One isolate was identified as *E. coli* and the other was reported as unidentified.

The new Bentley Somatic Cell Counter has been installed and has passed verification.

The FDA has released dates for the milk program training and the Southwest Regional Seminar. The seminar will be held in Golden, Colorado April 22-26, 2024. The Laboratory Examination of Dairy Products training class is tentatively scheduled for September 2024 in Alameda, California and the LEO training course also in Alameda for May 2024. At least one of the Sections microbiologists will be attending the training classes and two for the seminar.

Under this year's AFDO grant for the FDA milk program, the Section has submitted to purchase a cryoscope, incubator and an analytical balance. However, we have been informed that the grant would not be available until after December when all the training classes have been completed to see if funding would be available.

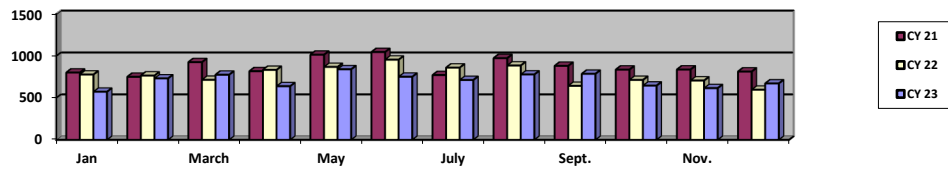


The month of December was a typical testing month for the Section. Two dairies were not tested, and one dairy is dry. The Section ended the year with sixty-six dairies, with ten dairies closing for the year. Twenty-nine meat samples and six meat waters were tested this month.

The Section was notified by the State Health Laboratory that there was a cluster of five *Campylobacter* cases in Rogers County on December 28th. After the Health Department investigated, it was determined it was from raw milk. The Section received samples from the dairy on the 29th and samples were taken to an independent laboratory in Oklahoma City since our Section is unable to test for *Campylobacter* at this time. The independent laboratory was able to get a presumptive positive on one sample but was not able to isolate a colony on an agar plate. The original sample with the presumptive positive and the enrichment were taken to the Public Health Laboratory (PHL) in Stillwater. The PHL was going to try to isolate a colony and also send a sample to Nebraska for possible Whole Genome Sequencing (WGS). *Campylobacter* is an anaerobic organism and is very hard to grow in a laboratory setting.

The Laboratory was notified that the AFDO grant has been released but not for the cryoscope. This is not an FDA regulated test, so therefore was not eligible for the grant. The incubator that was requested is no longer available from the vendor. The Section will only be getting the analytical balance.

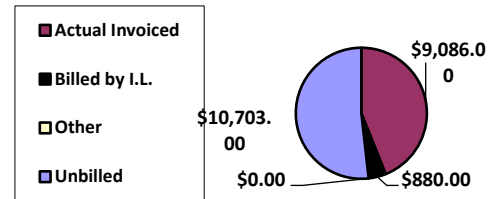
Total Determinations



Dairy Farms

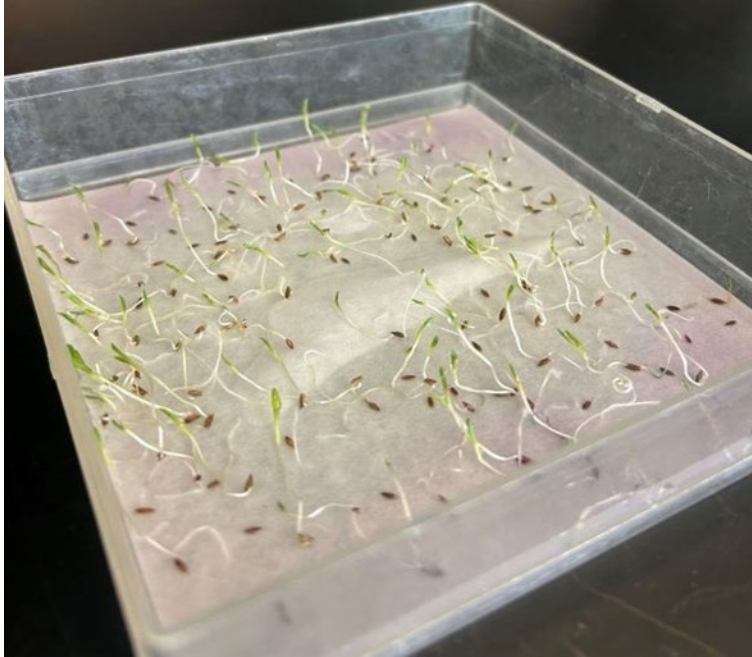


Revenue Breakdown



SEED SECTION: (Tori Gillispie, Agriculture Services Administrator I and Wade Krivanek, State Seed Program Administrator)

Sample records indicate that a total of 141 samples were received for November for the Section. Most of the crops tested consisted of fall season turf grasses, native grass, bermudagrass, mungbeans and noxious weed checks. Most samples were taken by CPS inspectors following up on carry over seed needing updated germination tests. Seed quality was acceptable for all official samples. There were no Seed Law violations discovered.



Picture: Crabgrass being tested for certification through Oklahoma Crop Improvement Association

The Board of Directors of the Oklahoma Crop Improvement Association (OCIA) and Oklahoma Genetics, Inc, (OGI) held their quarterly meeting at the Laboratory conference room on December 7th. Officials from OCIA reported that certified wheat sales were above average last fall, stating they received better moisture than last year. Current certified wheat crop updates reported at the meeting indicated that wheat conditions were good but also still reporting the presence of prohibited noxious weed field bindweed, cheat, rye and other weed species in certified wheat. There are still challenges with sprout damage in some areas of the state. Officials with OGI stated seed sales were average. They also stated they are working on two experimental plots of wheat varieties, indicating the quality looks good so far.

Seed testing activity for the Section remained normal for December. A total of 77 samples were received for testing. Most crops that were tested consisted of mungbeans, native grasses such as crabgrass, bermudagrass and noxious weed checks. There were four seed law violations discovered due to out-of-date test dates, causing 200 pounds of livestock forage and 195 pounds of tall fescue to be placed under stop sale.

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

November was a productive month for the Section. There were 270 completed samples with a total of 1288 determinations, exceeding all our monthly targets.

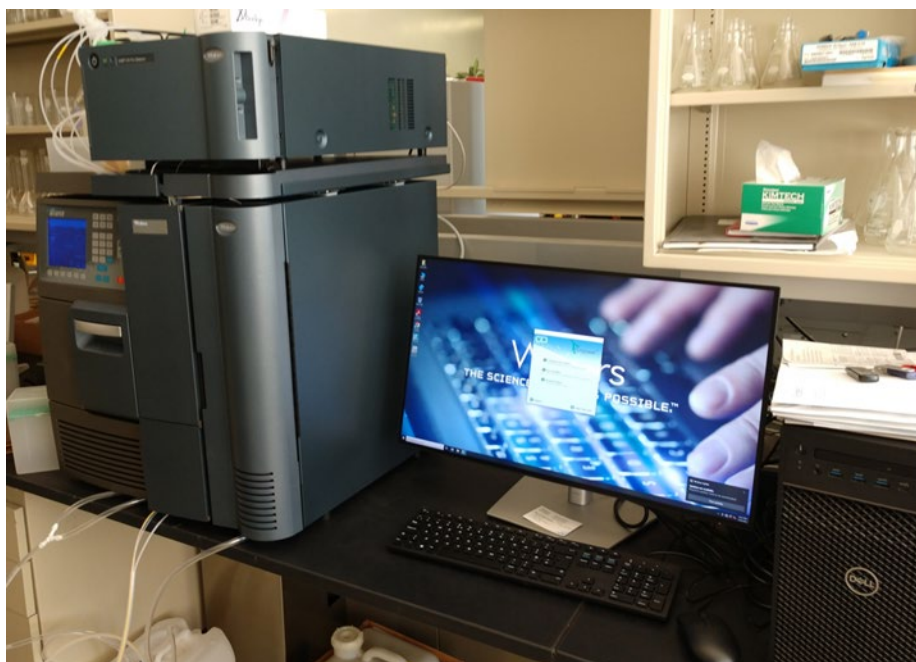
The Section has officially switched over to the feed rush even though received numbers appear to be down. We received around 100 samples collected in November on December 1st and 4th. The Section has come to a working agreement with CPS which will allow us to still test some fertilizers as needed, while running significantly more feed samples.

The new HPLC has been successfully installed, and we will be starting training and method development the second week of December. Our hope is that by the end of December we will be able to confirm performance of this new unit and be able to switch over and run our Vitamin A Analysis. We are hoping to use this unit for other analyses in the future and are looking forward to seeing what all we can test with it in addition to the needed Vitamin A Analysis.

Our average turnaround for all samples was 17.73 days, below our 18-day goal.

Overview of Section numbers for the month:

	Feed	Fertilizer	Lime	Total
Samples Received	212	24	3	239
Samples Completed	243	23	4	270
Determinations	1186	76	26	1288
Violations	104	2	1	107
Violation %	8.77%	2.63%	3.85%	8.31%



New Waters HPLC system installed and awaiting final training and method development.

December was a rough month for the Section. Due to holidays and staff illness we did not have sufficient staff present to validate and approve results. Early in the month there was an issue with our climate systems, OMES was able to get the Section back up and running in a few days. There was an associated problem with our hood systems which led to a smoke issue while ashing samples and limiting the chemistry we were able to accomplish. Once the system was back up and running we did experience several days of critically low humidity. We were able to find a work around using humidifiers and frequent mopping, but it did impact testing. The physical conditions led to a week's delay in sample turn around. These issues were further compounded by illnesses at the end of the month. We had several employees out sick, and on scheduled leave which meant we had limited results being approved. This had a large impact on our numbers for the month, causing a negative impact on turnaround times.

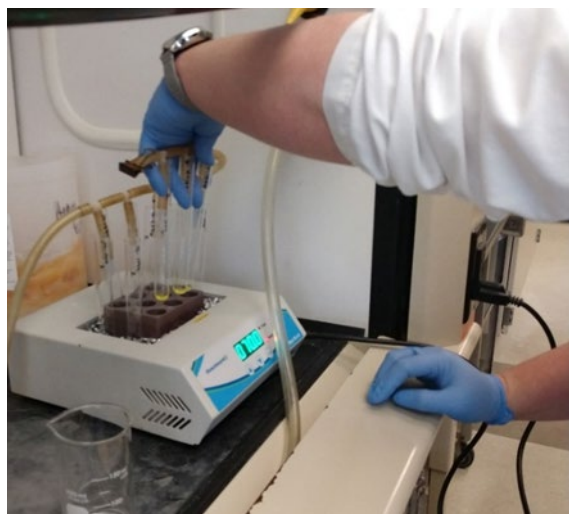
Feed rush is in full swing, we received 272 feed samples from CPS, a very solid number given the impact of the holidays and the CPS retreat. We were able to complete 155 samples for 603 determinations, though well below target goals it will be compensated for in January.

In positive news we were able to complete training on the new HPLC for vitamin A analysis and complete our certifications runs allowing us to start using the new machine in the first week of 2024.

Our average turnaround for all samples was 16.53 days, below our 18-day goal, however some of the approvals were pushed past the end of December.

Overview of Section numbers for the month:

	Feed	Fertilizer	Lime	Total
Samples Received	272	10	0	282
Samples Completed	127	28	0	155
Determinations	528	75	0	603
Violations	55	9	0	64
Violation %	10.42%	12.00%	0	10.61%



Evaporating Vitamin A samples, on the new HPLC. The test is still time and labor heavy due to the sample preparation involved.

PESTICIDE SECTION: (David Smith, Environmental/Chemical Laboratory Scientist IV)

In the month of November, the Nitrogen generator supplying the new LC-QQQ (6470 system) is still down. The nitrogen generator that supplies the LC-QQQ (6410B system) cannot produce enough gas to supply both LC-QQQ's therefore only one can be used at this time. Multiple quotes have been collected for the repair and replacement of these and other units. The Formulation backlog is steadily being reduced, and the Residue backlog is being caught up.

In the month of November, the Section completed 53 samples. Below is the table showing the number of samples, tests per sample, and determinations (Det.) per sample with turnaround times (TAT). The average TAT for this month is 51 days.

	Number of samples	Test	Det.	Average TAT (days)
Residue Vegetation	18	48	212	110
Residue Soil	23	28	56	27
Residue Water	1	3	3	67
Organic Act	-	-	-	-
Residue, Other	2	6	15	40
Concentrate	-	-	-	-
Tank Mix	-	-	-	-
Hemp	1	1	1	9

Average Residue Turnaround Time: 58 days

Average Formulation Turnaround Time: 10 days

Average Hemp Turnaround Time: 9 days

Totals		
# of Samples	# of Tests	# of Determinations
53	96	312

Samples the Section received by month:

The Section received 24 samples this month. Most of the samples received are for Residue Analysis (see Fig A).

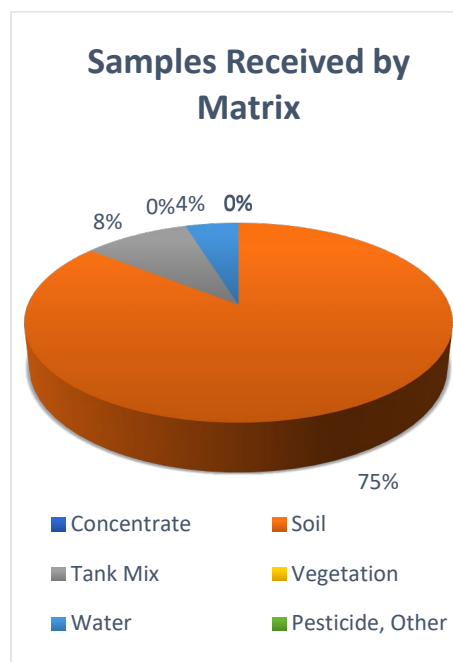
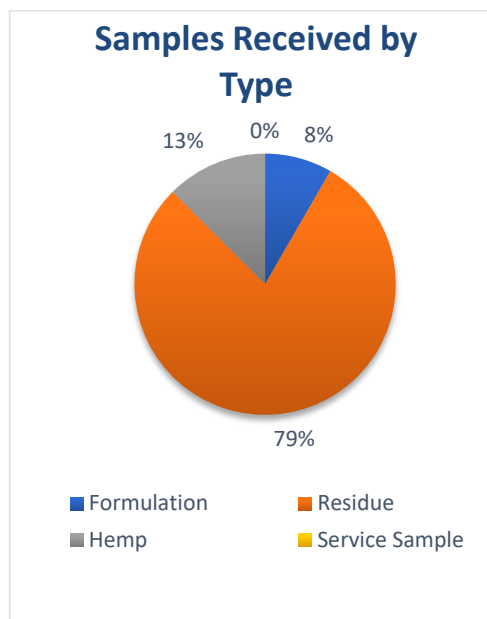


Fig A. Pie charts representing the number of samples received by type (left) and matrix (right).

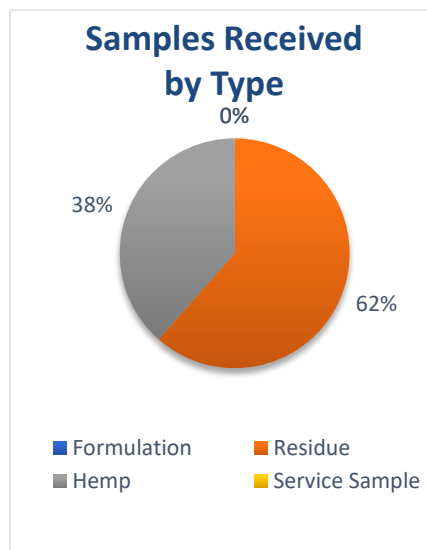
In the month of December, the Section completed 45 samples. Below is the table showing the number of samples, tests per sample, and determinations (Det.) per sample with turnaround times (TAT). The average TAT for this month is 54 days.

	Number of samples	Test	Det.	Average TAT (days)	Average Residue Turnaround Time: 58 days Average Formulation Turnaround Time: 91 days Average Hemp Turnaround Time: 3 days
Residue Vegetation	21	65	291	85	
Residue Soil	13	14	44	21	
Residue Water	1	2	2	34	
Organic Act	-	-	-	-	
Residue, Other	1	2	8	45	
Concentrate	2	4	2	91	
Tank Mix	-	-	-	-	
Hemp	5	5	5	3	

Totals		
# of Samples	# of Tests	# of Determinations
45	94	354

Samples the Section received by month:

The Section received 13 samples this month. Most of the samples received are for Residue Analysis (see Fig A).



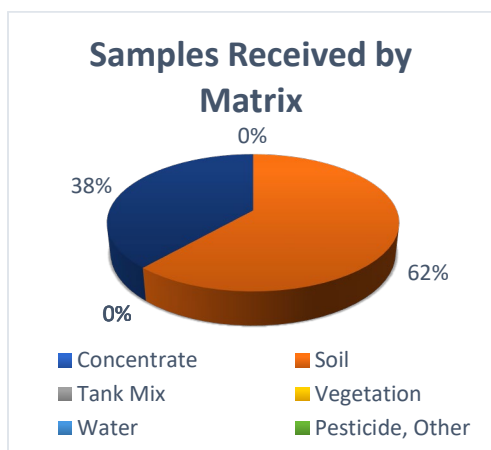


Fig A. Pie charts representing the number of samples received by type (top) and matrix (bottom).

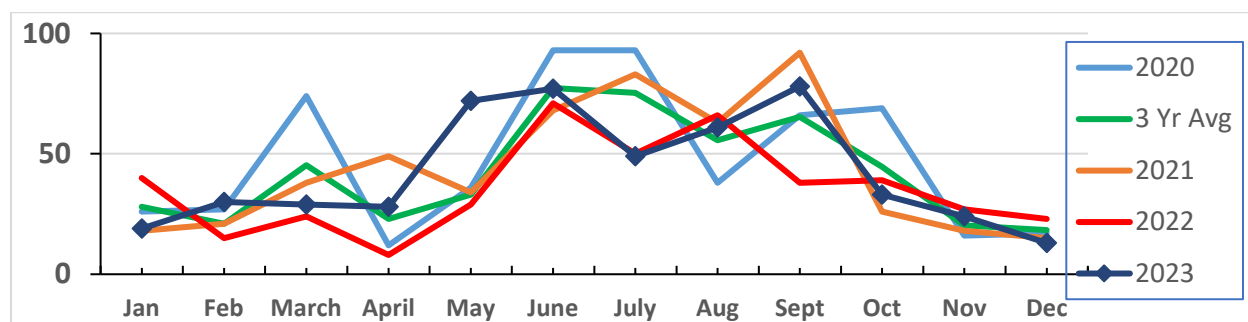


Fig B. Graph showing the number of samples received by the Section each month.

Determinations the Section completed by month:

This month, the Section completed 312 determinations with most of the determinations on residue vegetation samples.

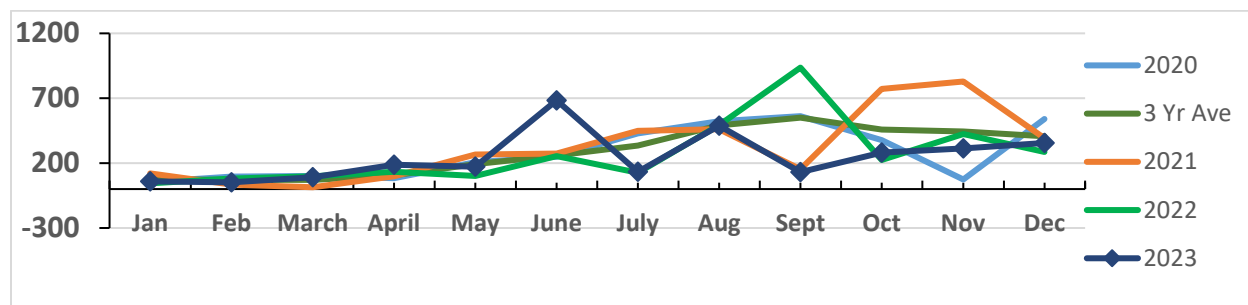
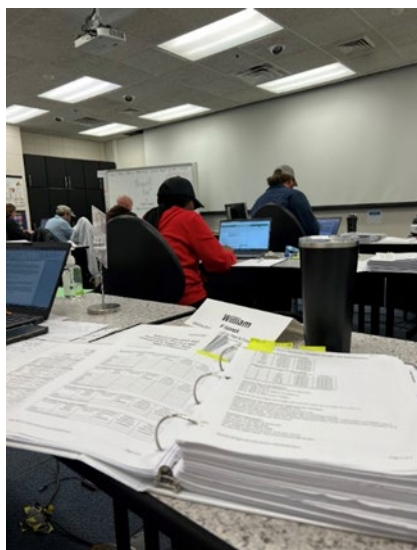


Fig C. Graph showing the number of determinations completed each month.

OKLAHOMA BUREAU OF STANDARDS: (William Krivanek, Metrologist II)

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

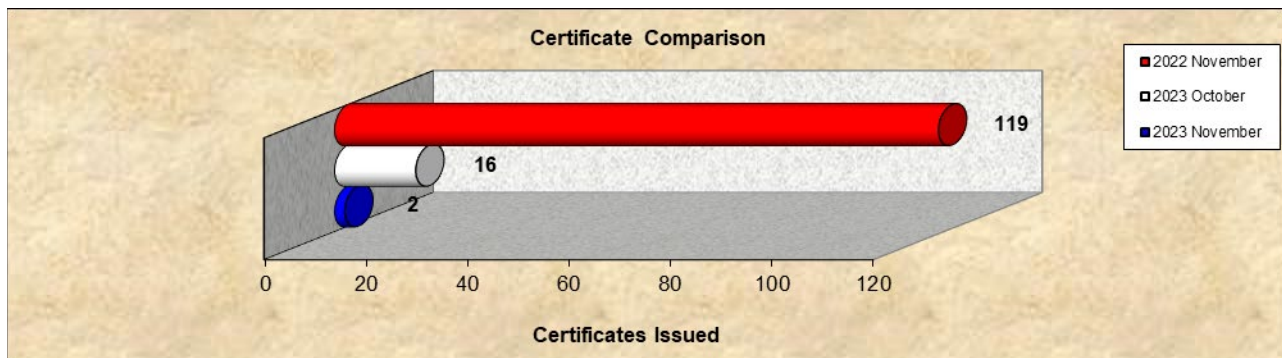
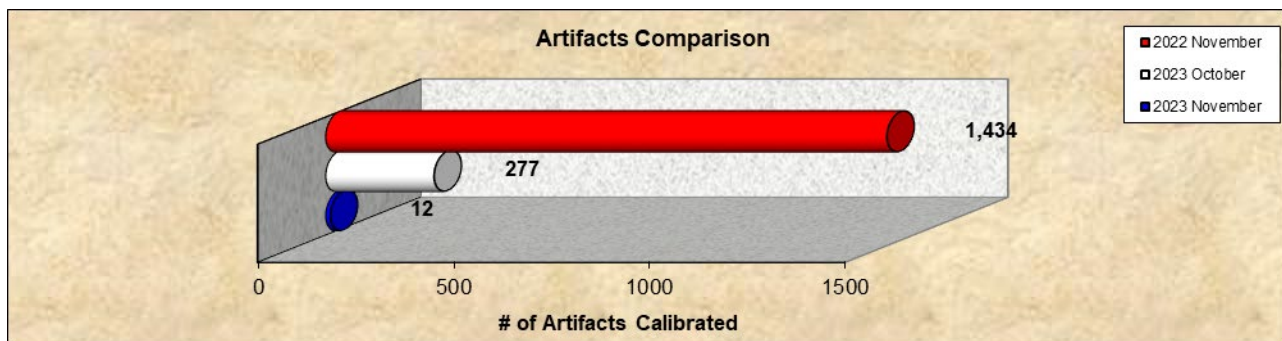
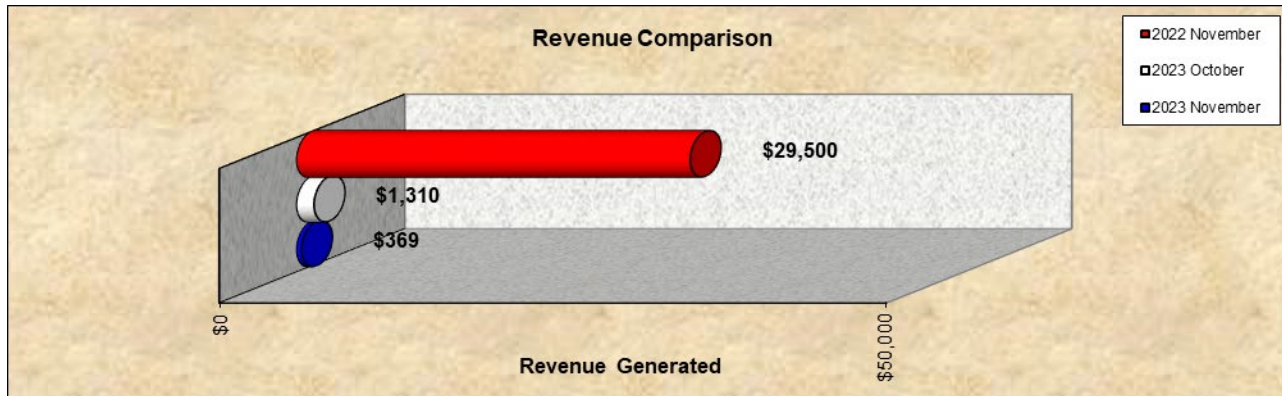
The Oklahoma Bureau of Standards generated a revenue of \$369.00 during the month of November. On November 4th, William Krivanek and Termelia Hogg returned from the Mass Metrology seminar held in Gaithersburg, Maryland. This now allows the Bureau's staff to begin working on their Laboratory Auditing Program Problems (LAP problems). LAP problems are assigned by the National Institute of Standards and Technology (NIST) after successful completion of required trainings. Once LAP problems are completed by an individual, it enables them to become a certified signatory in their Laboratory. It is important to have certified signatories, as this allows the Bureau to possess accreditation and recognition when completing calibrations. Bureau employees are excited about the progress made, as they will be able to start receiving more client work sooner rather than later.



Pictured above: Termelia Hogg is working on her excel spreadsheets during the Mass Metrology seminar held by NIST.

Month	#	Fees	% of Fees	# Standards	% of Standards
Out-of-State Customers	1	\$270.00	73.00%	1	8.00%
In-State Customers	1	\$99.00	27.00%	11	92.00%
Totals	2	\$369.00	100.00%	12	100.00%

Echelon	Total Fees not Charged	# Working Days Lead Time to Next Available Date for Calibration
Mass I / II	\$0.00	0
Mass III	\$0.00	0
Volume	\$0.00	0



The following is a workload summary for the Oklahoma Bureau of Standards from December 1st through December 31st.

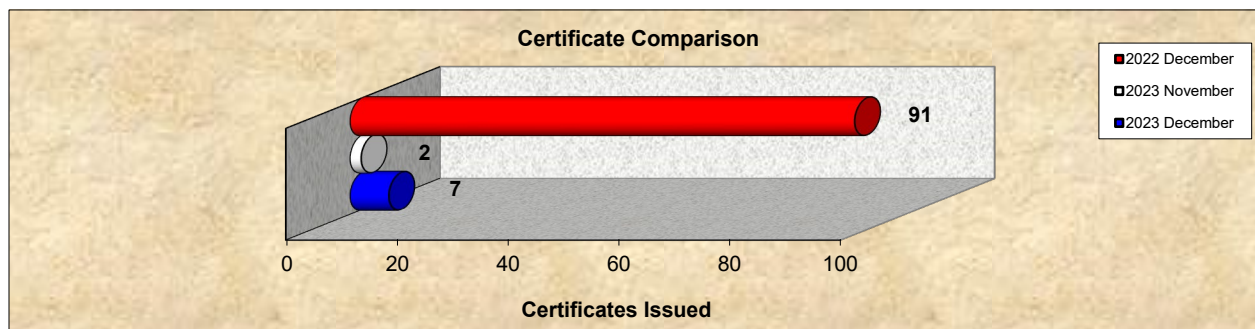
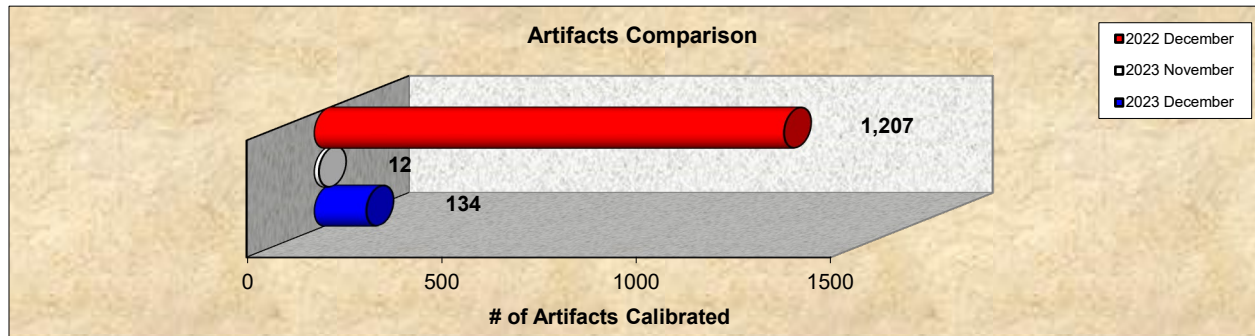
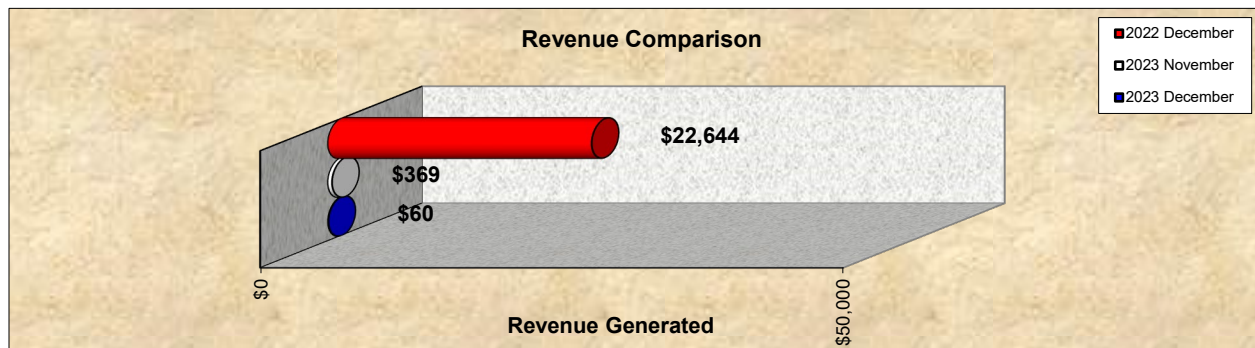
The Oklahoma Bureau of Standards' workload for December primarily consisted of performing calibrations for Consumer Protection Services (CPS). The Section will perform additional calibrations for CPS in January. The Section also completed its' internal technical audit and management review during the month of December. This enabled the Section to be aware of any corrections that may need to be made, as well as make more progress towards regaining accreditation and recognition.



Pictured above: These are 500-pound weights and 50-pound weights that belong to Consumer Protection Services.

Month	#	Fees	% of Fees	# Standards	% of Standards
Out-of-State Customers	0	\$0.00	0.00%	0	0.00%
In-State Customers	2	\$60.00	100.00%	134	100.00%
Totals	2	\$60.00	100.00%	134	100.00%

Echelon	Total Fees not Charged	# Working Days Lead Time to Next Available Date for Calibration
Mass I / II	\$0.00	0
Mass III	\$3,297.00	2
Volume	\$0.00	0



Respectfully Submitted,

A handwritten signature in blue ink, reading "Wade Krivanek". The signature is fluid and cursive, with the first name "Wade" and last name "Krivanek" clearly distinguishable.

Wade Krivanek
Laboratory Director
Laboratory Services Division

BOARD REPORT
AGRICULTURAL LABORATORY SERVICES
NOVEMBER 2023 ACTIVITIES

FEED SAMPLES	212
FEED DETERMINATIONS	1186
POSSIBLE VIOLATIONS	104
 FERTILIZER SAMPLES	 24
FERTILIZER DETERMINATIONS	76
POSSIBLE VIOLATIONS	2
 LIME SAMPLES	 3
LIME DETERMINATIONS	26
POSSIBLE VIOLATIONS	1
 PESTICIDE SAMPLES	 53
PESTICIDE DETERMINATIONS	312
POSSIBLE VIOLATIONS	0
 MEAT SAMPLES	 0
MEAT DETERMINATIONS	0
VIOLATIONS	0
 INORGANIC LAB SAMPLES	 197
DETERMINATIONS	1426
 SEED SAMPLES	 209
SEED DETERMINATIONS	232
POSSIBLE VIOLATIONS	0
 BUREAU OF STANDARDS CERTIFICATES	 2
NUMBER OF STANDARDS CALIBRATED	12
FEE CHARGES	\$369.00
 DAIRY SAMPLES	 271
DAIRY DETERMINATIONS	617
POSSIBLE VIOLATIONS	18
 TOTAL SAMPLES	 971
TOTAL DETERMINATIONS	3887
TOTAL POSSIBLE VIOLATIONS	125

BOARD REPORT
AGRICULTURAL LABORATORY SERVICES
DECEMBER 2023 ACTIVITIES

FEED SAMPLES	272
FEED DETERMINATIONS	528
POSSIBLE VIOLATIONS	55
 FERTILIZER SAMPLES	 10
FERTILIZER DETERMINATIONS	75
POSSIBLE VIOLATIONS	9
 LIME SAMPLES	 0
LIME DETERMINATIONS	0
POSSIBLE VIOLATIONS	0
 PESTICIDE SAMPLES	 45
PESTICIDE DETERMINATIONS	354
POSSIBLE VIOLATIONS	0
 MEAT SAMPLES	 0
MEAT DETERMINATIONS	0
VIOLATIONS	0
 INORGANIC LAB SAMPLES	 104
DETERMINATIONS	912
 SEED SAMPLES	 77
SEED DETERMINATIONS	105
POSSIBLE VIOLATIONS	4
 BUREAU OF STANDARDS CERTIFICATES	 7
NUMBER OF STANDARDS CALIBRATED	137
FEE CHARGES	\$60.00
 DAIRY SAMPLES	 309
DAIRY DETERMINATIONS	673
POSSIBLE VIOLATIONS	12
 TOTAL SAMPLES	 824
TOTAL DETERMINATIONS	2784
TOTAL POSSIBLE VIOLATIONS	80



OKLAHOMA FORESTRY SERVICES BOARD REPORT

Serving Oklahomans by conserving, enhancing, and protecting our forest and natural resources for present and future generations.

Forestry Services' 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.

Activity from November 10, 2023 thru January 8, 2024

COMMUNITY OUTREACH AND COMMUNICATIONS

FORESTRY EDUCATION

On December 7th, Education Coordinator Tony Pascall and Prescribed Fire Specialist Christian Hayes held a fire prevention booth at the "Home for the Holidays" event, featuring an appearance from Smokey Bear. Approximately 300 people were reached at the event.

On December 15th, Tony partnered with OKC Beautiful on a tree planting project in east OKC. Tony helped deliver 30 trees to be planted, and the equipment needed to plant them.



COMMUNICATIONS

SafeStayOK (SSOK)

An ad with the SSOK QR code has been placed in the annual Broken Bow Attractions Guide publication which is distributed to cabin owners and businesses for use by visitors throughout the year. Plans are in the works to develop other branded materials to put the QR Code and website in front of Hochatown/Broken Bow residents, property owners, and visitors. The guides will be published and distributed in February 2024.



Turner Falls

OFS and Turner Falls Park co-hosted a media day for interested news outlets to discuss and give a tour of Hazardous Fuels Mitigation work happening in the park. Representatives from [KSWO-Lawton](#), [KXII-Sherman/Denison](#), [KTEN-Sherman/Denison](#), and The Davis News were on hand for the event and provided coverage.



FOREST MANAGEMENT

FIA

The Forest Inventory and Analysis (FIA) crew is busy taking measurements across the state. Quantifying forest health and extent is the core mission of our project. In the last month, FIA was able to provide the Tinker Air Force Base tree height data to create protocols for low-visibility landing. These protocols will be expanded to the entire nation, using each state's specific FIA tree height data.



FOREST TREE IMPROVEMENT CENTER/STATE NURSERY

The Forest Tree Improvement Center seedling cooler located in Idabel received its first shipment of seedlings this week. The order consisted of 100,000 loblolly pine bare-root seedlings to be planted in McCurtain Co. These superior genetics developed through our pine genetic breeding program will be planted and grown for saw log production throughout Southeast Oklahoma.



WILDFIRE HAZARDOUS MITIGATION

Wildfire Mitigation Crews kicked off work at Turner Falls in late November. OFS resources utilizing bulldozers completed a three-mile long fire break along the crest of a plateau in the heart of Turner Falls Park. This area is a challenge for firefighting personnel due to the rocky conditions within the Arbuckle Mountains. Work utilizing mastication and prescribed fire will proceed until the project is complete.

Mitigation work on the Oklahoma City hazard mitigation project at the new B-21 Bomber campus remains on hold due to verification of ownership brought up by Oklahoma City Utilities Authority. Legal staff from both entities are working together in wrapping up details.

State Fire Assistance Grant (SFA) applications must be submitted by January 15th. After meeting with Tulsa Area Emergency Management OFS will proceed with an application to conduct mitigation work at a high-profile area on the property of the Gilcrease Museum in northwest Tulsa.

Roger Mills County has become the third county in the state with a county wide Community Wildfire Preparedness Plan (CWPP). They completed their plan in mid-November and submitted to OFS for approval.

PROGRAM HIGHLIGHTS FROM THE EASTERN AREA OFFICES

NORTHEAST AREA

Forest Protection Highlights

From November 10th through January 5th, the Northeast Area extinguished 36 fires that burned 1,192.1 acres. Connie Robinson, Barry Caswell, and Craig Longshore conducted interviews for the Jay Forest Ranger I position. After two days of interviews, they selected Robbie Kirby and his first day of duty will be on January 16th. Leon Macon, Kaley Helton, and Craig Longshore conducted interviews for the NE Forest Fire Control Officer in December. Jerrod Foster was chosen for the position and starts January 29th. Joe Leak, Connie Robinson, Isaac Merchant, and Craig Longshore conducted interviews for the Proctor Forest Ranger I position on January 4th and 5th. Seventeen applicants were interviewed and selection will be made in coming days.

Forest Rangers Cole Hix and Charles Kimble presented a Fire Prevention Program at Greenwood Elementary in Tahlequah on December 18th.

Connie Robinson and Craig Longshore met with Eric Ashlock at Tahlequah to discuss his upcoming projects and look for opportunities in the NE Area.



Prescribed Fire

In December NE Area Rangers, Isaac Merchant, Billy Riggs, David Jones, Kassie Roberts, and Heath Jones worked on two properties in Adair County preparing control lines for upcoming prescribed fire projects. The NE Area has several USFS Cross Boundary projects they are focusing on in coming weeks.

Forest Management/Program Highlights

Connie Robinson gave a forest management presentation at the Grove Garden Club. She attended two meetings with the Caney Valley NRCS Working Group. Connie met with an OSU professor and Ottawa County landowner to arrange for Capstone Project site for OSU senior Forestry students. She attended the OSU syrup study in Ottawa County. Connie assisted eight landowners with site visits and assisted ten with phone calls in the timeframe. She completed one prescribed burn plan in Delaware County for 117 acres and completed two forest stewardship plans: one in Cherokee County for 235 acres and one in Okmulgee County for 80 acres. Craig Longshore met with Dusty Goforth in Southern Adair County to look at a possible timber theft.

Administrative

Craig Longshore attended several online trainings: *Handling Financial Stress*; *Team Reboot*; the *Five Voices Series*; and attended *Growing Team Through Mentoring* in OKC.

Ongoing Issues/Upcoming Events

- NE Area unfilled positions
- NE Area Pack Test 1/11/24

FIRE MANAGEMENT

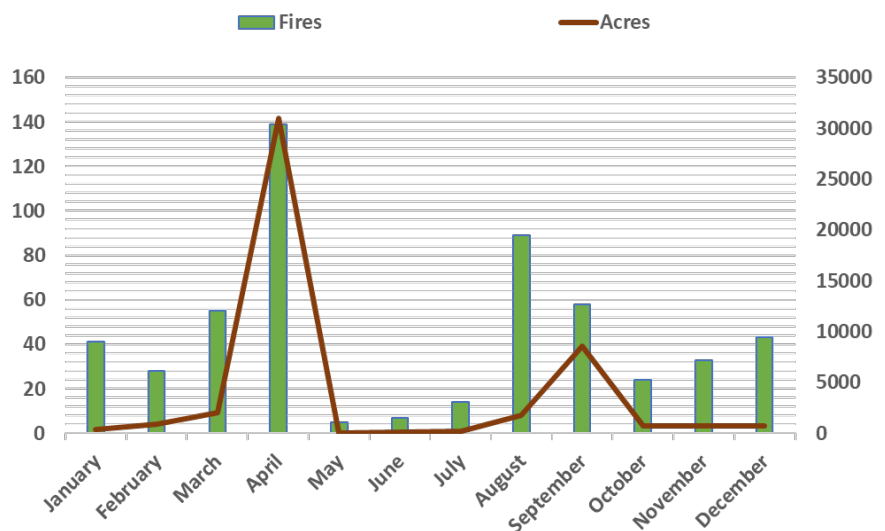
WILDFIRE ACTIVITY & OUTLOOK EXECUTIVE SUMMARY

Oklahoma Forestry Services closed out 2023 with below-normal wildfire occurrence and acres burned. OFS responded to 536 wildfires burning 47,222 acres. When compared to the 10 -year average of 1,203 fires burning 230,247 acres annually, OFS responded to only 45% of normal fires burning less than 21% normal acres burned. Ongoing drought through 2022 into 2023 resulted in much less available fuel on the landscape during the winter and spring months especially in those areas where grazing occurred on the landscape. Subsequently, timely and abundant rainfall early in the growing season prompted vigorous, early green-up bolstered by additional shots of reinforcing moisture through early summer. Flash drought developed mid- to late summer coupled with a stretch of above-normal temperatures driving strong rates of evapotranspiration and declining live-fuel moisture. As a result, increased wildland fuel availability supported an uptick of fire occurrence in August and September. Transitioning into the fall months, the onset of shorter days and a return to normal(ish) temperatures calmed concern for a worrisome fall fire season.

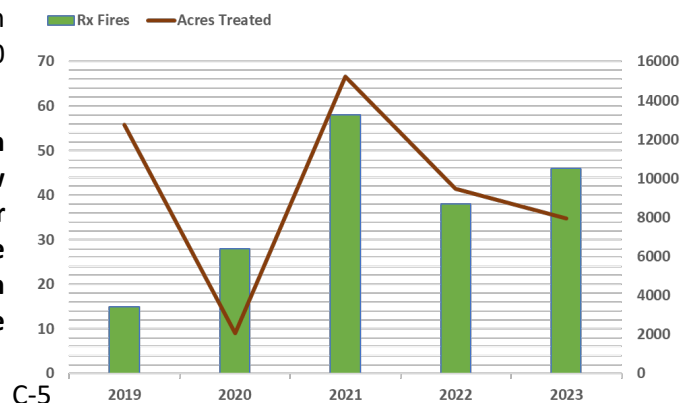
Oklahoma Forestry Services ended the year completing 46 prescribed fires treating 7,946.7 acres. Burning was targeted at achieving multiple objectives with the majority of the activity focused on both ecological restoration and hazard fuels mitigation. A few of the fires were implemented for site preparation as a production forestry practice. OFS prescribed fire activity is generally dependent upon our level of wildfire readiness and response activity – wildfire activity often limits our ability to conduct prescribed fires. 2023, however, proved difficult given the lack of burning conditions in January through early-March when we can complete the bulk of our burning to meet objectives. Leaning into 2024, OFS has a number of prescribed burns planned or in the process of plan development targeted at treating approximately 12,000 acres.

Overall, the wildfire outlook remains difficult to pin down. El Niño influence that was expressing slow development in the last report has proven to deliver some moisture in recent weeks more consistent with the expectation. This trend is expected to persist through winter with a 60% chance of transition toward more

OFS Wildfire Response - 2023



OFS Rx Fire- 5 Yr.



ENSO-neutral conditions progressing into spring. For now, the cooler/wetter resolution reflected in the near-term forecast models (6-14 days) is favored.

On the flipside, those timely rains at the beginning of the 2023 growing season did support vigorous herbaceous growth across much of Oklahoma despite the rapid onset of drought indices over the summer months. Many areas are currently classified with having above normal fuel loading prompting vigilance in monitoring both fire weather and fuels conditions. There are a handful of triggers that are monitored continually to assess wildfire potential in the predicted environment.

- ≥ 5 Days since wetting rain.
- **Critical Fuel Moisture Thresholds:**
 - 1 Hr. Fuels (Fine-Fuel) – 3% West to 5% East
 - 10 Hr. Fuels (1/4" – 1") – 8%
 - Periods of Accelerated Drying or Poor Overnight Moisture Recovery
- **Fire-Effective Weather Patterns:**
 - Deeply Penetrating Dryline
 - Dry-Cold Fronts
- **Positive Temperature Anomaly (+15°).**
- **Intensifying Energy Release Component (>50th %tile).**

Despite the drought conditions that have persisted, Oklahoma generally received adequate rainfall early in the growing season coupled with a few timely summer rains producing normal to above-normal herbaceous fuel loading across the state. OFS determines herbaceous fuel loading by assessing multiple inputs. The primary input is annual observation and photo comparison at locations across the state as indicated in the map and inset to the right. Additionally, sources like Grass-Cast, timing and amount of precipitation, hay prices and other remote sensing inputs are incorporated. The big take-away for now is that, unlike last year, there is ample wildland fuels on the western Oklahoma landscape to support potential for large and/or significant fire activity when combined with fire effective weather.

Hazard Fuels Mitigation:

Recent hazard fuel and community protection projects have proven successful and this work continues with vigor. The Circle Mountain Project in Washington County was tested in March of 2023 when a wildfire occurred in the area. The mitigation work offered a strategic opportunity for OFS and local firefighters to successfully defend homes and other values at risk. The Turkey Mountain Urban Wilderness in Tulsa County both mitigated hazard fuels while also providing the area with a boost in invasive species control through both mechanical and prescribed fire treatments. This work continues with an intensive project currently in progress at Turner Falls. The project at Turner Falls targets fuels reduction and access improvement in an area that has seen costly wildfire activity in the past. Plans to initiate work in the area of Tinker Air Force Base targeted at protecting critical facilities for national defense and surrounding housing subdivisions are in the final stages with work scheduled to begin later in the first quarter of 2024.



COMMUNITY FIRE ASSISTANCE

Fire equipment was restored and provided to a grateful Shady Point Fire Department in in LeFlore County. Before and after shots of the 2008 Freightliner 5-Ton 6x6 water tender are provided below.



BEFORE



AFTER

STATE FORESTER ACTIVITIES from 10 November 2023 thru 12 January 2024:

- Attended two scheduled Director's Meetings
- Conducted two sessions of the *S-520 Advanced Incident Management* Course in Tucson, AZ (Goeller serves as a Subject Matter Expert/Cadre/Steering Committee member)
- Assisted with content review of the new Introduction to Incident Management Teams course, a new national-level training course. Goeller serves as the National Association of State Foresters representative to the National Wildfire Coordinating Group's Incident Management Team Course Steering Committee.
- Virtually attended a State-sponsored Incident Management Team membership call.
- Attended the December meeting of the Oklahoma Rural Fire Coordinators.
- Participated on the Southern Group of State Forester's Fire Management Chief's November Monthly Call.
- Participated on a call with US House Representative Lucas' office regarding sponsorship of a Bill related to codification of Forest Action Plan funding.
- Attended the December and January OFS First Tuesday Meeting

Respectfully submitted,

Mark E. Goeller, State Forester/Director
Oklahoma Forestry Services



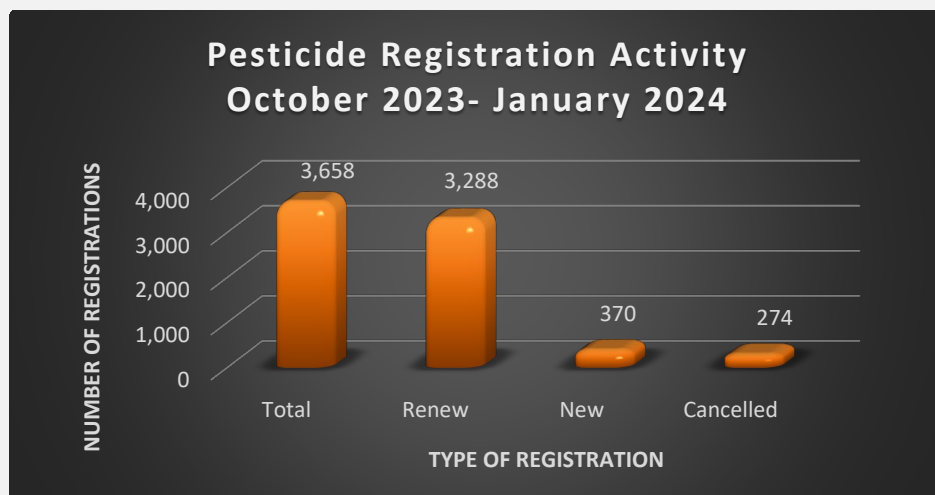
CONSUMER PROTECTION SERVICES DIVISION

JANUARY 25, 2024 BOARD MEETING REPORT FOR OCTOBER/NOVEMBER/DECEMBER 2023

PESTICIDE SECTION

Pesticide Registration Activity

Pesticide registrations for October 1st in 2023 to January 5th in 2024 are presented in the following chart. A total of 3658 products were registered, of the products registered 3288 were renewals and 370 were new. There were 274 products cancelled.



Pesticide Samples

Pesticide samples taken November-December 2023 are presented in the following chart. A total of 27 Residue, 1 Plant Food, 2 Documentary, and 1 Tank Mix samples were taken.

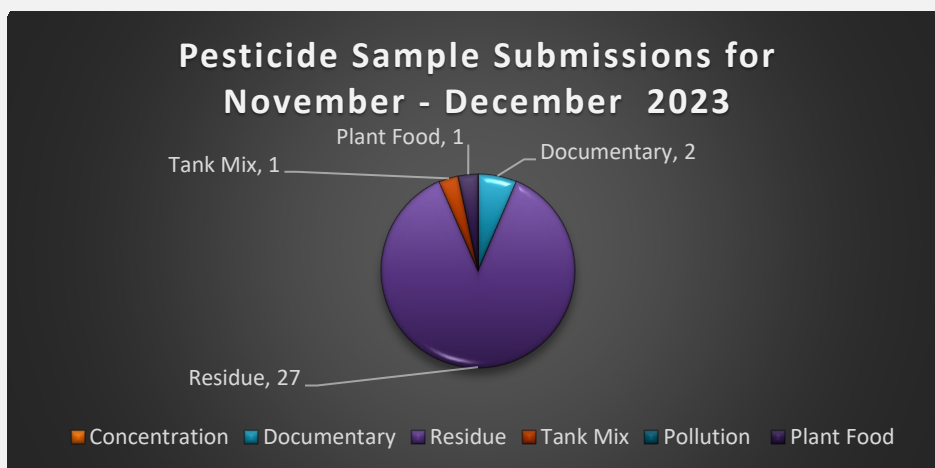


Table 1. Inspection Count for November - December 2023*

Inspection Type	Number of Inspections		
	November	December	Two Month Total
Experimental Use Permit	0	0	0
Marketplace	46	44	90
Pesticide Applicator Facility	16	17	33
Pesticide Service Inspection	0	0	0
Restricted Use Pesticide Dealer	20	16	36
Container Containment Inspection	0	0	0
Producer Establishment	0	0	0
Use	48	39	87
Termite	1	0	1
Wood	0	0	0
Pre-treat	4	1	5
Drift Investigation	0	0	0
Pesticide Label	3632	3585	7217
Worker Protection	0	0	0
Total	3767	3702	7469

* 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 took 27 nonagricultural use samples, 2 nonagricultural follow up samples, and 2 agricultural use follow up samples for a total of 31 samples.

Pesticide Testing & Updates

License Renewals

Approximately 1,769 company licenses have been renewed out of 2,400 company licenses that expired.

Private Applicator Renewals

There were about 7,400 private applicator licenses that expired on December 31, 2023, and approximately 1,735 applicators have been renewed.

Pesticide Applicators

The following categories expired on December 31, 2023: 10-Demonstration & Research, 7b-Structural Pest, 1a-Agricultural Plant, and A-Aerial.

Pesticide Complaints

PESTICIDE COMPLAINTS	November 21, 2023 – January 8, 2024			
	RECEIVED	CLOSED	WARNINGS ISSUED	NO ACTION
CONSUMER GENERATED:	4	8	4	8
MUSK THISTLE:	0	0	0	0
PMR CASES:	4	2	5	2
CASES REFERRED TO OGC:	9			

ENVIRONMENTAL RESOURCE AND HORTICULTURE SECTION

Plant Protection Program

Phytosanitary Certificates

Federal phytosanitary certificates Issued from November 1, 2023 – December 31, 2023.

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

29 Federal phytosanitary certificates issued @ \$106.00 each

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

5 Federal phytosanitary Certificates issued @ \$61.00 each

Federal Phytosanitary Certificates (November 1, 2023 - December 31, 2023)			
Country	Product	Quantity	Phytos Issued
Belgium	Barrelclover Seed	8 G	1
Hong Kong	Barrelclover Seed	5 G	1
Indonesia	Miscanthus Seed	40 Totes	2
Japan	Agave	2 Plants	1
Mexico	Sesame Seed	688,000 Lbs	16
Netherlands	Bermuda Grass Seed	11,440 Kg	2
Republic of Korea	Mung Bean Seed	260 Metric Tons	4
Republic of Korea	Sorghum bicolor Seed	40 Kg	2
Romania	Wheat Grass Seed	20 G	1
Thailand	Miscanthus Seed	60 Totes	3
United Kingdom	Barrelclover Seed	5 G	1

Companies applying for federal phytosanitary certificates:

Caudill Seed Company	1
OSU	4
International Ingredient	5
Johnston Seed Company	4
Sesaco	16
Tobin Newcomb	1
Jlee	3

State phytosanitary certificates Issued from November 1, 2023 – December 31, 2023
57 phytosanitary certificates for 2,167 plants



A state phytosanitary template has been set up in the USDA PCIT system which manages Federal Phytosanitary Certificates to allow digital creation and management of Oklahoma's state phytosanitary certificates. Kaci and Mary are currently in the process of testing this template and, if all goes well, will start using the system for certificates in January and February.

Boxwood Blight

On October 9, 2023, the Plant Disease Lab at OSU found Boxwood Blight (*Calonectria pseudonaviculata*) on a Boxwood sample submitted by an Oklahoma nursery. This is the first finding of Boxwood Blight in Oklahoma. The nursery has disposed of all the Boxwood variety it was found on, and samples of all surrounding Boxwood varieties were taken to check them for Boxwood Blight.

A total of 126 samples were taken from surrounding varieties. From that sampling, we received a total of 12 positive samples from 3 different varieties. The nursery is disposing of all associated Boxwoods and further sampling will take place in the month of January to check the nursery for Boxwood Blight.



Figure 1: Boxwood Plant with Boxwood Blight

Aster Yellows



Figure 2: Distorted flowers of Purple Coneflower caused by Aster Yellows.

In mid-November, an Oklahoma Chrysanthemum grower contacted ODAFF to report positive samples for Aster Yellows. Aster Yellows is caused by a phytoplasma, and is not federally regulated, but regulated on a state-by-state basis. This grower is testing all his stock and is going through sanitation measures to begin growing the next mum crop in early Spring.

ODAFF is not involved in the clean-up but will inspect and sample the operation in late January or February to make sure the disease is not present before this producer begins shipping.

Environmental Program

On October 5th, 2023, ODAFF inspector, Jasmine Hightower visited Weed Free for Me LLC DBA Dons Lawn, located at 1543 SE 25th St., Oklahoma City, OK 73129, regarding an improper pesticide discharge on property. Upon arrival, our inspector observed numerous dye colored water puddles and other areas with fresh dye residue in the gravel parking lot behind the building. A composite soil sample was collected from these areas and the lab results showed various pesticide residues, including 2,4-D, dicamba, MCPA, triclopyr, bifenthrin and prodiamine. This was determined to be an improper discharge of a pesticide and using a pesticide in a manner inconsistent with its label.

Hemp

Renewal season is upon us and the applications are coming in. Many are switching from medical marijuana to hemp because of the ease of application and clarity of rules/laws.

Apiary

Results from the honeybee survey are coming in from the USDA and are being sent to the participating beekeepers.

AGRICULTURE RESOURCE SECTION

Weights & Measures Program

During this period the large capacity scale technicians tested 78 Vehicle scales and 8 of the scales were rejected. One ranch scale was also tested.

CPS inspectors checked a total of 766 small scales and 30 platform scales, 18 of the scales were rejected. There were 27 random pack inspections and 52 standard pack inspections conducted that resulted in 10 companies receiving letters of warning and 1 company receiving a Stop Sale. Additionally, 67 price verification inspections were conducted at various retailers that resulted in 2 companies receiving a letter of warning.

A total of 2 scale companies received a letter of warning for not properly servicing scales.

The 2024 ODAFF Ranch Scale testing program plans to begin on February 20, 2024. 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 to request a scale test.

Fertilizer Program

Program Performance

Below you will find the performance numbers for the fertilizer, agricultural lime, and soil amendment programs for the time-period of November 15th through December 31st, 2023.

The sampling of fertilizer and ag lime products/materials are limited to only custom blend fertilizer samples until the beginning of February to support Laboratory Services Division so they can be more efficient with their time and resources by running predominately feed samples during this time of the year.

Sample Type	Number	Deficiency Penalty/SS
Fertilizer	11	0
Lime	1	0

Investigation Type	Number
Dry Bulk Fertilizer Storage Facility	22
Liquid Bulk Fertilizer Storage Facility	15
Facility Pre-Site	3

Feed Program

Program Performance

During this reporting period there were a total of 126 official feed samples analyzed, with 524 feed determinations made from these samples. These determinations resulted in the issuance of 32 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 violations include Crude Fat, Calcium, Vitamin A, Crude Fiber, Zinc, Salt, Phosphorus, Copper, and Potassium. Twenty-Four stop sale orders were issued for feed products with severe deviations from their guaranteed analysis. Eleven stop sales were issued for products deficient in Vitamin A. Four stop sales were issued for products deficient in Crude Fat. Four stop sales were issued for products deficient in Crude Protein. Two stop sales were issued for products deficient in Calcium. 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 November 2023 - December 2023

Nutritional Guarantee	Number of Label Violations		
	December ¹	November ²	Two Month Total
Crude Protein	8	16	24
Non-protein Nitrogen	0	0	0
Crude Fat	4	6	10
Crude Fiber	1	2	3
Calcium	5	5	10
Phosphorus	2	2	4
Salt	1	3	4
Magnesium	0	0	0
Potassium	1	0	1
Copper	1	0	1
Manganese	0	1	1
Zinc	3	4	7
Vitamin A	6	5	11
Methionine	0	0	0
Total	32	44	76

¹ 126 feed samples analyzed with 524 determinations; ² 236 feed samples analyzed with 1149 determinations

Table 2. Feed Stop Sale Summary November 2023 - December 2023

Nutritional Guarantee	Number of Stop Sales		
	December ¹	November ²	Two Month Total
Crude Protein	4	3	7
Non-protein Nitrogen	0	0	0
Crude Fat	4	3	7
Crude Fiber	0	0	0
Calcium	2	4	6
Phosphorus	1	1	2
Salt	0	4	4
Magnesium	0	0	0
Potassium	0	0	0
Copper	2	2	4
Zinc	0	0	0
Vitamin A	11	12	23
Medicated Feed	0	0	0
Total	24	29	53

¹126 feed samples analyzed with 524 determinations; ² 236 feed samples analyzed with 1149 determinations

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

Kenny M. Naylor



OKLAHOMA
Agriculture, Food
and Forestry

Oklahoma Department of Agriculture, Food and Forestry
Animal Industry Services Board Report
January 25, 2024
Activities November 11, 2023 – January 5, 2024

Animal Disease Traceability:

To handle the influx of premises identification number applications, a separate email account has been established specifically for the PIN applications: pin.info@ag.ok.gov. We have updated the application and made it available online. This has increased our ability to manage these requests in a timely manner as multiple staff members have access to the inbox and a system has been developed to ensure applications are received and processed.

We continue to distribute the free RFID tags to interested veterinarians and producers. During this time, we shipped 11,700 tags to 11 veterinarians and two producers. We distributed three RFID readers to livestock market veterinarians during this time.

We've had nine new account requests for our no cost electronic CVI to make a total of 202 registered users.

We have been assisting Investigative Services with cattle theft investigations by reviewing official identification records in USAHerds to determine if movement has occurred.

Aquaculture:

To assist the upcoming USDA NASS Aquaculture census, we emailed current aquaculture licensees and encouraged their participation in the census.

Aquaculture renewals were sent out during this time frame.

Biologics:

During this time, we registered 2 new products and processed 11 autogenous requests.

Dr. Gorczyca-Southerland is consulting with a swine veterinarian over the use of Live Virus Inoculation in a farm in Oklahoma. The MOU for LVI use has been developed and will be used if this farm decides to utilize this methodology to control disease.

Cattle Programs:

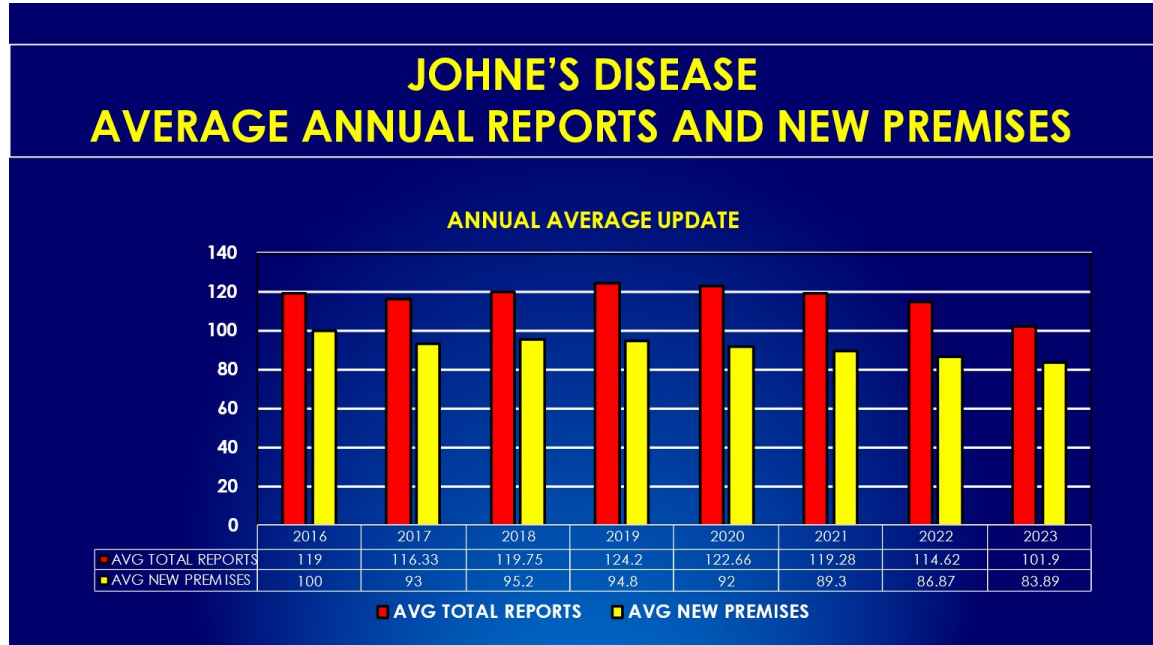
Brucellosis:

One Brucellosis Certified Free herd is currently completing their yearly testing, and a reminder has been sent to another herd that their re-certification is due.

The only remaining reservoir of *B abortus* in the U.S. is in elk and bison in the Greater Yellowstone Park area.

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) in cattle, which currently infects approximately 20% of the feral swine that our Wildlife Services personnel test. *B suis* can, and does, infect cattle occasionally.

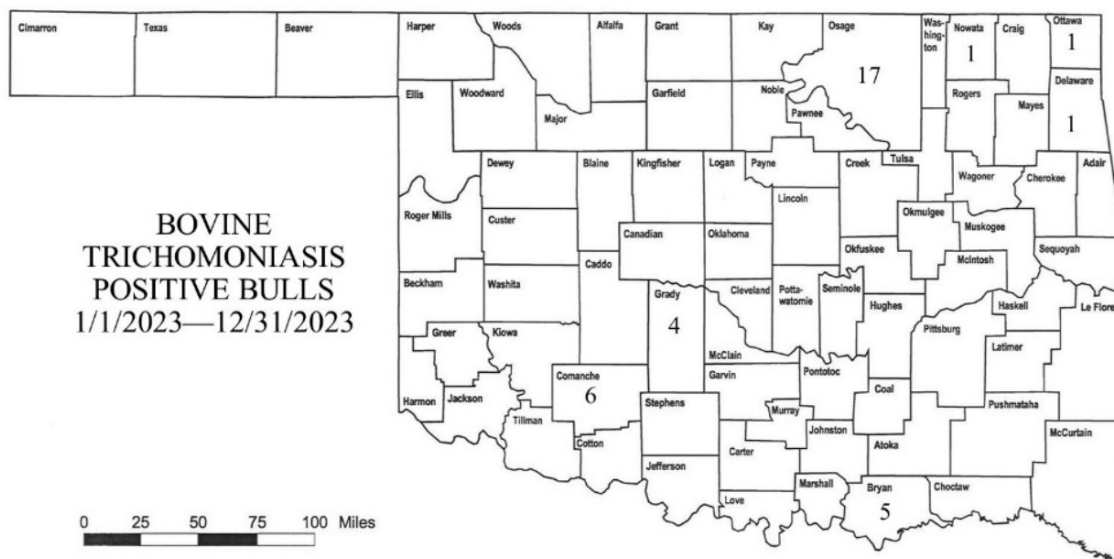
John's Disease:



We continue to work to educate producers and veterinarians about management strategies to reduce disease.

Trichomoniasis:

During this period there were 2,180 Oklahoma bulls tested for Trichomoniasis with 14 positive individuals found.



15,883 bulls tested / 35 positive = 0.22% 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, 0.28% in 2021, and 0.3% in 2022.

Tuberculosis:

There was no unusual activity in the TB program during this time.

Emergency Management:

During this period, Dr. Gorczyca-Southerland served on a NADPRP review team for depopulation and disposal grant proposal submitted for funding consideration.

On November 29, Dr. Gorczyca-Southerland, Dana Call, and I, along with Dr. Suzanne Genova and the OK Pork Council held a Secure Pork Supply planning workshop for swine exhibitors. 10 exhibitors were selected to complete their SPS plans and enroll in AgView to record movements from November 2023 until the conclusion of OYE. After consulting with OYE staff, these exhibitors will be allowed to enter the OYE show grounds through a specified gate as an incentive for completing their plans and entering movements into AgView.

On November 30, the OK Pork Council and the National Pork Board held an African Swine Fever tabletop exercise in Oklahoma City focusing on the exhibition swine industry.

On November 14-16, Incident Command System 300 Course was held at the OK Pharmacy Board for AIS, AEMS, and Food Safety participants. The class was taught by USDA ESF-11 Coordinators. We are planning on having the follow up course, ICS 400, at ODAFF on January 17-18. This will allow staff to attend the All-Hazards Position Specific Training that will be held in Omaha, NE March 11-15, 2024.

Equine Programs:

There are no reported cases or quarantines for CEM in Oklahoma.

There are no Piroplasmosis cases in Oklahoma.

Oklahoma had 5 EIA cases in 2023 with a total of 7 positive horses.

There is currently one open EIA investigation. Since the start of the case on September 14, 2023, there have been a total of 3 positive equine from the premises. The most recent positive was December 29, 2023 which resulted in an extended quarantine time for the remaining exposed equine. The owner of the premises where the positive case was found is a horse dealer which has resulted in numerous equidae being moved on and off the property during the time frame the index horse was present.

The owner also failed to provide basic care for the exposed horses resulting in the local Sheriff's office confiscating the remaining animals due to neglect. The investigation is ongoing at this time as the source of infection has not been determined and trace outs are still being performed.

Farmed Cervidae Programs:

On November 27 Deputy Commissioner Rowlett, Dr. Gorczyca-Southerland, and I met with ODWC staff to discuss potential changes to the CWD Response Plan.

AIS is preparing for Farmed Cervidae and CWD Herd Certification Program renewal cycle for 2024-2025. There has been a concerted effort to assure that each licensee has the correct representation of their herd inventory through communications with the producers and making the necessary changes in USA Herds.

The selected sire for the farmed cervidae cooperative agreement project for selective genetics has been imported into Oklahoma. This mature Whitetail buck has been identified as having the genetic markers for resistance to chronic wasting disease and will be bred to up to 250 Whitetail females through artificial insemination.

An updated list of veterinarians qualified to perform veterinary services for farmed cervidae has been added to the ODAFF- AIS website. This will provide timely information for our producers who need these services.

Feral Swine:

There continues to be a steady increase in the feral swine hunter license applications. There have been a few more feral swine handling facility applications recently submitted. There have not been any complaints or concerns reported at this time.

Foreign Animal Disease:

On November 30 Deputy Commissioner Rowlett, Dr. Gorczyca-Southerland, and I attended and participated in an African Swine Fever exercise hosted by Oklahoma Pork Council and supported by National Pork Board. The focus of this exercise was show pig producers and how an ASF outbreak would affect them.

The week of December 12, Kansas Department of Agriculture hosted a Foot and Mouth Disease Exercise. While we did not send a representative to the exercise, we participated virtually by responding to a few injects.

Related to the HPAI outbreak, we received requests from Missouri to import table eggs from a distributor in a control zone and a request from Arkansas to import market ready broilers that went to custom processing. After confirming the safety of the products, we approved the requests.

With Dr. Ruby leaving, we have reassigned some duties. One of those is monthly reporting of Reportable Diseases. Dana Call will be doing this reporting for us moving forward.

There were two FAD investigations during this time.

One was a commercial poultry flock in Leflore County with high death loss that was suspicious for HPAI. Thankfully, it was not HPAI.

The other was a backyard poultry flock in Garfield County that experienced the death of all their chickens. It was diagnosed as HPAI and the premises will remain quarantined for 120 days.

Livestock Market Audits:

During this period, staff approved the livestock market application of Prague Livestock Auction. Mr. William Forney began selling livestock at his new livestock market on November 29th. The state's newest market sells goats and sheep as well as farm related items the 2nd and 4th Wednesday of every month.

December also allowed for the completion of an audit of specialty crop grant funds for the market development division. The end of the year also saw staff meet with multiple individuals regarding potential livestock market sales in our state. As well as the new market activity, this period also allowed for several custodial account reviews.

Livestock Auction Market Activities

Auction market licenses issued	1
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)	0

Outreach:

On November 14 Dr. Stone spoke to a group of OSU veterinary students, pre-vet students and wildlife students about prion diseases and specifically Chronic Wasting Disease

On November 22 I submitted my report for the OVMA quarterly newsletter, *Communique*.

On November 27 I hosted a virtual VMO meeting for USDA and ODAFF veterinarians.

On November 28 Dr. Stone held a wet lab for CWD sampling using hunter harvested deer with the about 15 OSU Vet students and two of our Livestock inspectors. This same skill is used in sampling for Bovine Spongiform Encephalopathy and Scrapie in sheep and goats. The US is looking for the last scrapie animal which will allow the opening of export opportunities for sheep and goat producers. Field sampling for BSE has merit to help protect our beef and dairy exports and field.

On December 1 I did an interview with Keona Mason of OSU Ferguson College of Agriculture about Bovine Spongiform Encephalopathy.

On December 7, Dr. Gorczyca provided an overview of the proposed swine show moratorium rules and HPAI to OSU Extension.

On December 11 Dr. Stone was interviewed about Johne's Disease as part of a panel with Drs. Barry Whitworth and Michael Collins by Beef Magazine.

On December 13 I gave a presentation to the OSU Extension Educators *Coffee Shop Talk* virtual meeting about the proposed changes to the spring swine show rules.

Also, on December 13 I hosted a virtual VMO meeting of USDA and AIS veterinarians.

On December 19 Emma Yates, Stillwater, from the Agriculture Youth Council, shadowed me. Emma is interested in veterinary medicine as a career and wanted to learn more about what regulatory veterinarians do. On January 5, Emma and Elle Yates, from the Agriculture Youth Council, shadowed both Drs. Ruby and Gorczyca-Southerland.

Our Field Staff were on hand at the gates for Cattlemen's Congress beginning December 28 until January 9 to assist the CC interns in verifying ID, testing requirements, and documentation for the cattle from all over the United States and Canada as they entered the grounds.

Poultry Programs:

There have been 22 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.

There was one new case of Highly Pathogenic Avian Influenza detected since the last board report. The 4 backyard flocks that were affected in October remain under a 120 day quarantine. We continue to respond to sick bird calls with testing of suspect birds.

The ongoing 2022 incursion of Highly Pathogenic Avian Influenza has affected domestic flocks in 47 states with the death or depopulation of over 70 million birds. This is the largest foreign animal disease incursion in US history. We continue to stress the importance of biosecurity in both commercial and backyard flocks through outreach such as emails, social media, and county extension officers.

Public Health

There is nothing significant to report for this section.

Rabies in Livestock:

There were no cases of rabies in livestock during this time.

Sheep and Goat Programs:

There was no significant activity in this program during this time.

Swine Programs:

I continue to be part of two working groups composed of swine industry representatives, USDA veterinarians, and State Animal Health Officials to plan a response strategy to African Swine Fever.

AIS continues to participate in a Secure Food Supply working group comprised of other state agents who are monitoring, approving and assisting producers with their secure food plan. The group has expanded to include several other states and provides a platform for discussion and training.

Swine test submissions for the winter/spring show season successfully transitioned to OADDL. There were very few mis-directed samples during this very busy time for swine testing. AIS is also seeing an increase in swine show permit applications for the spring season. Dana is providing premises certificates to applicants (new Ag Educators or Extension Educators) who did not know the premises ID number for the show site.

Miscellaneous:

On January 4, I hosted an informal conference for a veterinarian who had their accreditation suspended. After discussions between the practitioner, USDA veterinarians, and I, we granted his request to renew his accreditation.

On December 6, our office staff visited the Oklahoma City Zoo. One of the zoo veterinarians invited us to visit their partially completed *Expedition Africa* exhibit and see their baby giraffe. After the zoo visit, we moved across the street to Remington Park and I treated the staff to dinner at Bricktown Brewery to celebrate my 72nd birthday.

I'm very sad to announce that Dr. Beth Ruby has accepted a job with USDA and is leaving ODAFF January 12. She will be the Area Emergency Coordinator for Oklahoma and Arkansas and will continue to assist us in that capacity. She's been with us for four years and has been a great asset to our division and the agency.



At the new Expedition Africa exhibit at the OKC Zoo



After supper at Remington Park

Respectfully,

Rod Hall DVM

Rod Hall, DVM

Oklahoma Department of Agriculture, Food, and Forestry
Wildlife Services Division
Board Report for December 2023 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 695 properties with an estimated 2,615,816 acres of land under agreement. Additionally, WS helped 270 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 \$700,298 during this period. Beaver damages accounted for losses totaling \$148,188. Coyotes were responsible for a number of damage requests, primarily to livestock, with losses totaling \$55,397. Feral swine damages accounted for losses totaling \$484,861, while other species of wildlife were responsible for \$11,852 in damages to property, agriculture, and livestock.

Providing Wildlife Services

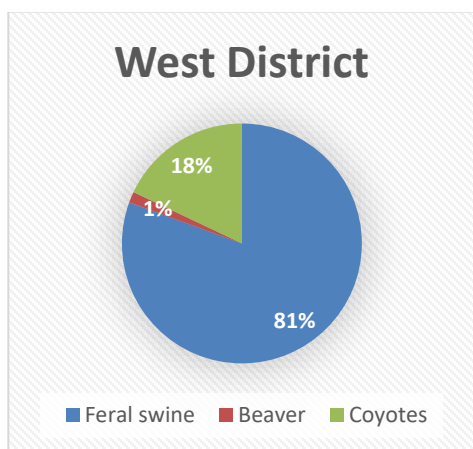


Figure 1: Species Removed in West District by percentage during December 2023

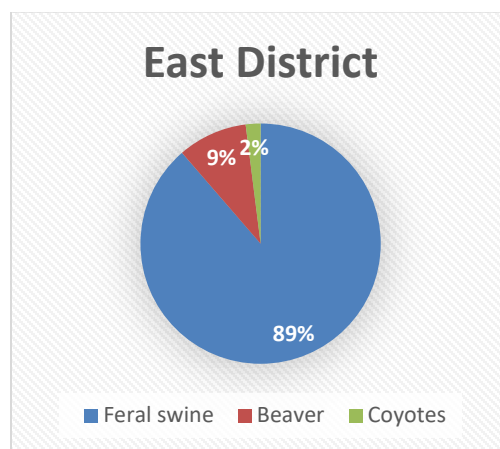


Figure 2: Species Removed in the Northeast District by percentage during December 2023

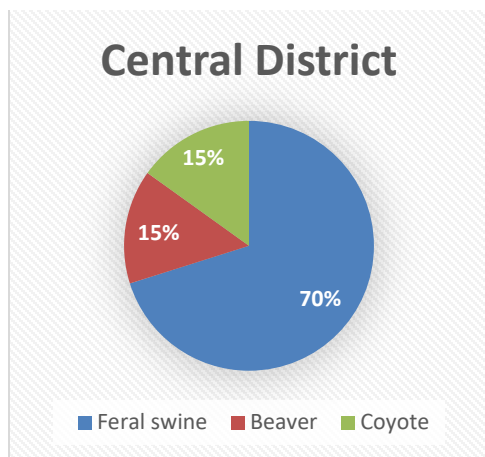


Figure 4: Species Removed in the Central District by percentage during December 2023

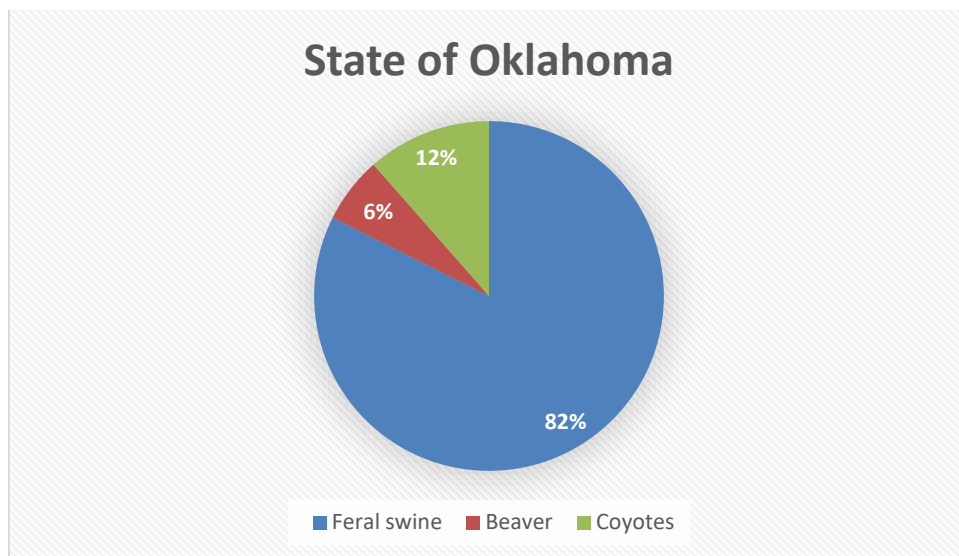


Figure 5: Species Removed in the State by percentage during December 2023

Coyote Damage Management

Beckham County livestock producer requested assistance with coyotes depredating on his calves. The producer reported coyotes killed one calf valued at \$1,000. 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. Control efforts have removed six coyotes and are continuing at this time to further reduce predation losses to coyotes for the producer.

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

Beaver County livestock producer requested assistance with coyotes depredating on a calf. The producer reported coyotes had killed one calf valued at \$881. The Wildlife Specialist assigned to Beaver County responded to the request and examined the carcass and confirmed coyotes were responsible for the loss of the calf. The Specialist used leg hold traps and calling/shooting to remove six coyotes. Control efforts continue to prevent additional losses.

Tillman County landowner requested assistance with coyotes depredating on a calf. The producer reported coyotes had killed one calf valued at \$882. The Wildlife Specialist examined the carcass and verified coyotes were responsible for the loss. Damage management efforts were successful in removing eight coyotes from the property. Control efforts continue to prevent additional losses.

Pawnee County rancher reported losing three newborn calves to coyote predation with damage estimated at \$2644. Traps were set in the pasture of the latest losses and two coyotes were removed in the first week of work. There have been no further losses reported from the rancher.

Feral Swine Damage Management

Jackson County landowner contacted WS needing assistance in removing feral swine rooting in his wheat fields. The landowner estimated that feral swine have caused \$5,000 in damage to his wheat. The Wildlife Specialist assigned to Jackson County responded to the request and verified the damage. A live trap was utilized to remove twenty-seven feral swine from the property. No additional damage has occurred and the population in the area is being monitored to determine if additional management is needed.

Custer County landowner contacted WS needing assistance with feral swine damaging his pastures. The landowner estimated the damage to the pastures was \$3,000. The Wildlife Specialist assigned to Custer County responded to the request and verified the damage. A live trap was utilized to remove fifty-four feral swine from the property. No additional damage has occurred and the population in the area is being monitored to determine if additional management is needed.

Harmon County landowner contacted WS needing assistance with feral swine damaging his stored haybales. The landowner estimated the damage to the haybales was \$1,500. The Wildlife Specialist assigned to Harmon County responded to the request and verified the damage. A live trap was utilized to remove twenty-two feral swine from the property. No additional damage has occurred and the population in the area is being monitored to determine if additional management is needed.

Craig County rancher called WS for assistance with feral swine when he found damage to his hay fields. The damage was verified and estimated at \$10,000. A remote camera trap was placed and fourteen feral swine have been removed to date. This project is still being monitored the landowner was advised of environmental changes that could help prevent future feral swine damage.

Seminole County rancher called WS for assistance with feral swine, reporting damage to his hay fields. The damage was verified and estimated at \$1800. After pre-baiting, a remote camera trap was placed out and twelve feral swine were removed. This project is still being monitored.

Pittsburg County producer called WS for assistance with feral swine, reporting damage to his pastures. The damage was verified and estimated at \$5,000. After pre-baiting, a remote camera trap was placed out and twenty-six feral swine have been removed to date. This project is still being monitored.

Delaware County property owner called WS for assistance with feral swine, reporting rooting damage to his pasture. The pasture damage was verified and estimated at \$700. After pre-baiting, a remote camera trap was placed out and four feral swine have been removed. This project is still being monitored and the property owner was advised on environmental changes that could prevent future feral swine damage.

Logan County landowner called WS about a single feral boar tearing up a hay stack. WS responded and verified approximately \$1500 in damages to the hay. One feral boar has been removed from the property using thermal hunting and WS is currently trapping another location on the property.

Pawnee County landowner called WS and reported damage to a wheat field. WS responded and verified damage to almost the entire field. Several groups of feral swine were caught on the property and then two more groups pigs totaling twenty-four feral swine were caught in December. No damage has occurred after the most recent round of rain and work is ongoing at this time.

Aerial Operations

Aerial operations were conducted in **Jackson and Harmon Counties** in response to several farmers requesting feral swine damages to wheat fields, milo fields, and pastures. Damage in the area flown was estimated at \$30,000. To reduce feral swine damage in this area, the helicopter was utilized for 6 flying hours to remove two hundred and fourteen feral swine. This area will be closely monitored to determine if additional aerial operations are needed.

Aerial operations were conducted in **Tillman County** on roughly 8,000 acres in Tillman County in response to request with feral swine damaging pastures, milo fields, and corn fields. The helicopter was utilized for 6 hours with the removal of two hundred and forty-seven swine. Additional flight operations are planned in this area to further reduce feral swine populations and damage associated with feral swine.

Beaver Damage Management

Stephens County landowner contacted WS for assistance with beaver responsible for damage to trees around his pond. The Specialist for Stephens County responded and verified beaver were responsible for \$800 in damages to the trees. The Specialist utilized conibear traps to remove four beaver from the pond. Control efforts are completed at this time.

Major County Commissioner contacted WS with beavers responsible for \$1,500 to the road and bridge structure. The Wildlife Specialist assigned to Major County responded to the request and verified that beavers were responsible for the damage reported. The Specialist utilized conibear traps to remove two beavers from the adjacent creek. Control efforts are completed.

Roger Mills County landowner contacted WS for assistance with beaver responsible for damming up the creek on his property and flooding his wheat pasture. The landowner estimated the damage to the pasture to be valued at \$2,000. The Specialist for Roger Mills County responded and verified beaver were responsible for damage. Control measures used by the Specialist were effective in removing the beavers from the creek to help reduce any additional damage to the road structure.

Mayes County Commissioner called WS for assistance because beavers were causing flooding issues to a county road. The beaver damage was confirmed and the beavers were located on an adjoining landowner's property. The owner was contacted and was interested in having the beavers removed due to the damage on his property, which was estimated at \$3,000 in tree damage. Conibear traps were placed and three beavers have been removed to date. This project is still being monitored and the owner was advised on environmental changes that could assist with future beaver damage.

Choctaw County cooperator called WS for assistance, reporting beaver damage in his stock pond. The damage to the pond dam was verified and estimated at \$3,500. Foot-hold traps were placed and three beavers were removed. This project is concluded.

Cherokee County producer called WS for assistance with beavers cutting trees on the property. The tree damage was verified and estimated at \$3,000. Neck snares were placed and two beavers have been removed to date. This project is still being monitored.

McCurtain County Commissioner called WS for assistance, reporting beavers were causing flooding issues on a county road. The flooding damage was verified and damages were estimated at \$1,200. After removing the beaver dam to alleviate the flooding, conibear traps were placed. To date, two beavers have been removed and this project is still being monitored.

Oklahoma County work continued on a local golf course. They had reports of beavers in one of the ponds on the course and fresh chewing on a couple of trees. Three beavers were removed with traps and one with a firearm. There has been no fresh sign or sightings since.

Love County landowner called WS with reports of beavers damming up his water way and flooding his hayfield. WS met with the landowner and verified beavers were damming up the water way. Devices were set and a beaver dam was removed from the property. Seven beavers have been removed at this time and work is ongoing at this time. Estimated damage was at \$1500 in tree clean up.

Kingfisher County landowner contacted WS about a beaver damming up a tin horn in a creek. WS verified the damage and traps were set on the property and monitored. One beaver was removed from the property. After no signs of beaver activity for 2 weeks, the traps were removed from the property.

Black Vulture Damage Management

Le Flore County power plant black vulture project continued in the month of December. The plant reported that it cost \$14,000 to have their facilities cleaned and prepared for inspections due to the large number of black vultures using the structures to roost. The vulture trap on the property was baited and sixty-two vultures were removed. This project is still being monitored.

Special Projects

Oklahoma Wildlife Disease Biologist collected samples from wildlife in the month of December. These samples are submitted to various labs for disease monitoring and prevalence.

- 187 Avian Influenza (cloacal/oral swab) samples were opportunistically collected from duck hunters in the Lower Arkansas and Neosho Verdigris Watersheds.
- 25 Feral Swine (blood, tissue) samples were collected during Wildlife Damage Control activities in Oklahoma.

Table 1: Beaver, Coyote, and Feral Swine removal in Oklahoma by WS December 2023

County	Beaver	Coyote	Feral swine	District
Adair				E
Alfalfa		1		W
Atoka	5		21	E
Beaver		5		W
Beckham		4		W
Blaine	3	15	129	W
Bryan	12			E
Caddo		4	29	W
Canadian	6			C
Carter	1			C
Cherokee	1			E
Choctaw	1		22	E
Cimarron				W
Cleveland	3	2	17	C
Coal				C
Comanche	12	2	23	W
Cotton		12		W
Craig				E
Creek			13	E
Custer	1		275	W
Delaware			1	E

Dewey	3	17	15	W
Ellis		32	6	W
Garfield		10		C
Garvin				C
Grady			2	W
Grant	5	4		C
Greer			59	W
Harmon				W
Harper		4		W
Haskell	6		25	E
Hughes	3	20	137	E
Jackson		67	219	W
Jefferson		1	5	C
Johnston	13	4		C
Kay	3			C
Kingfisher	1	10		C
Kiowa				W
Latimer				E
Leflore	24		10	E
Lincoln			18	C
Logan		3	44	C
Love	12		19	C
Major				W
Marshall				C
Mayes	3			E
McClain				C
McCurtain	20			E
McIntosh	4		5	E
Murray	1	3	4	C
Muskogee	3		129	E
Noble			30	C
Nowata				E
Okfuskee			37	E
Oklahoma	2	4		C
Okmulgee			5	E
Osage	3		302	E
Ottawa				E
Pawnee		1	56	C
Payne				C
Pittsburg	2			E
Pontotoc				C
Pottawatomie		6	30	C

Pushmataha	1		15	E
Roger Mills		8	21	W
Rogers				E
Seminole			12	E
Sequoyah	1		79	E
Stephens				W
Texas		19		W
Tillman		20	247	W
Tulsa				E
Wagoner	5		21	E
Washington			56	E
Washita		6	15	W
Woods		1		W
Woodward		15	1	W
TOTAL	160	300	2154	

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

Respectfully submitted,

Scott Alls
Division Director
Wildlife Services Division

**December 2023 Activity Report
for
January 2024 Board Meeting

Agricultural Statistics Division**

General

For the **month of December**, rainfall totals averaged 2.70 inches throughout the state, with the West Central district recording the highest precipitation at 3.40 inches and the Southeast district recording the lowest precipitation at 2.35 inches. According to the December 26th US Drought Monitor Report, 46 percent of the state was in the abnormally dry to exceptional drought category, down 52 points from the previous year. Additionally, 21 percent of the state was in the moderate drought to exceptional drought category, down 69 points from the previous year. Statewide temperatures averaged in the upper 30's to upper 40's, with the lowest recording of 10 degrees at Kenton on Saturday, December 2nd, and the highest recording of 80 degrees at Burneyville on Friday, December 8th. Topsoil and subsoil moisture conditions were rated mostly adequate to short.

Small Grains: Winter wheat grazed reached 53 percent, up 21 points from the previous year. Rye grazed reached 8 percent. Oats grazed reached 4 percent.

Pasture and Livestock: Pasture and range condition was rated at 63 percent fair to poor. Livestock condition was rated at 90 percent good to fair.

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

Survey	Enumerated by:	Survey Dates
Pecan Inquiry	DCC	11/28- 12/8
December Ag Survey	DCC	11/29- 12/18
Cotton Ginnings	DCC	12/4 – 12/5
NFI Slaughter	DCC	12/4 – 12/6
Cattle on Feed	DCC	12/3 – 12/10
Grain Prices	DCC	12/6 – 12/13
Cotton Ginnings	DCC	12/18 – 12/19
Row Crop County Estimates	DCC	12/13- 1/25
Cattle Survey	DCC	12/28 – 1/16
Sheep and Goats Survey	DCC	12/28 – 1/16
Milk Production	DCC	12/28- 1/10
Cotton Ginnings	DCC	1/2 – 1/3

NFI Slaughter	DCC	1/5– 1/9
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Statistics: On January 12, 2024, the Annual Crop Production report and the Wheat Seedings Report was released. Highlights include:

Oklahoma corn production is forecast at 50.7 million bushels, up 107.6 percent from the previous year. Statewide yields averaged 149 bushels per acre, 27 bushels lower than 2023. Acres harvested for grain, at 340 thousand, is up 70 percent from last year.

Oklahoma sorghum production is forecast at 16.45 million bushels, up 185.6 percent from last year. Yield averaged 47 bushels per acre, up 23 bushels from the previous year. Acres harvested, at 350 thousand acres, is up 45 percent from 2023.

Oklahoma Upland cotton production is forecast at 310 thousand bales, up 2 percent from 2023. Yield averaged 783 pounds per acre, compared with 120 pounds last year. Acreage harvested, at 190 thousand acres, is down 13.6 percent from last year.

Oklahoma seedings for the 2024 wheat crop are forecast at 4.3 million acres, down 4.5 percent from last year. Canola seedings were estimated at 30.0 thousand acres, up 27.0 thousand acres from last year.

Information Requests: Phone calls, personal visits to our office, and requests via e-mail for information since last report totaled 29.

Releases for December:

Crop Production
2023 Wheat County Estimates (QuickStats)
Cattle on Feed
Hogs and Pigs
Agricultural Prices

Relating Dates:

December 1, 2023
2023 Crop Year
December 1, 2023
December 1, 2023
December 15, 2023

Release Dates

December 8, 2023
December 15, 2023
December 22, 2023
December 22, 2023
December 29, 2023

Releases for January:

Crop Production
Annual Crop Production
Wheat/Canola Seedings
Grain Stocks
Cattle on Feed
Cattle Report
Sheep and Goats Report
Agricultural Prices

Relating Dates:

January 1, 2023
2023 Crop Year
December 1, 2023
December 1, 2023
January 1, 2023
January 1, 2023
January 1, 2023
January 15, 2023

Release Dates

January 12, 2023
January 12, 2023
January 12, 2023
January 12, 2023
January 19, 2023
January 31, 2023
January 31, 2023
January 31, 2023

Meetings and Events:

Wheat Commission Meeting
AYC Session 4

Date:

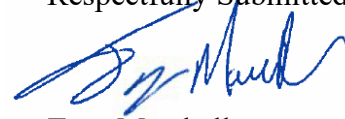
December 1, 2023
December 6, 2023

Location:

OKC, OK
OKC, OK

OSU SE Inservice Meeting	December 7, 2023	Wewoka, OK
IAC Annual Meeting	December 11-14, 2023	Las Vegas, NV
Muscogee Creek Tribal Conservation Dist	December 19, 2023	Okmulgee, OK
Muskogee Student Meeting	December 20, 2023	Muskogee, OK
Lincoln County CD	January 8, 2024	Chandler, OK
APHIS/OTCAC Planning Meeting	January 8, 2024	Virtual
OLAC Monthly Board Meeting	January 9, 2024	Virtual
Wheat Commission Meeting	January 11, 2024	Enid, OK
Red River Crop Conference	January 17-18, 2024	Altus, OK
AYC Session 5	January 25, 2024	OKC, OK
ARMS 3 Enumerator Training	January 31-February 2, 2024	Altus, OK

Respectfully Submitted,



Troy Marshall

MARKET DEVELOPMENT SERVICES

January 25, 2024

Report to the State Board of Agriculture

AG IN THE CLASSROOM

AG IN THE CLASSROOM IMPACT

- Total Number of Teachers/Administrators Impacted: 176
- Total Number of Pre-service Teachers Impacted: 33
- Total Number of Extension Educators Impacted: 5
- Total Number of Students Directly Impacted by Coordinators: 80
- Total Number of Resources Given: 5,945
- Total Number of Teachers/PreService Teachers Resources Given to: 83
- Total Number of PreK-12th Grade Students Resources Given to: 80

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

- The AITC monthly email is delivered to 17,090 accounts.
- The AITC Facebook page now has 9,709 followers.
- The AITC Twitter page now has 580 followers.
- Oklahoma AITC Instagram account now has 800 followers.
- Oklahoma AITC Pinterest account now has 220 followers.
- The AITC YouTube channel now has 9,476 views.

Ag in the Classroom- Professional Development Workshops

Number of Educators & Grade Level(s)	Location	Lessons/Activities Used	Resources Given
17	OSU Stillwater Willard	Farm Boots - Christmas Tree Solo cups	Barn full of resources
16	NSU Broken Arrow	Farm Boots - Butter - Resources	Barn full of resources
50 Oklahoma educators from across the state	NE Oklahoma Specialty Crop Educator Tour - Owasso Christmas Tree and Berry Farm, Greener Grounds Aquaponics, and Knight Pecan Farm	Tours at Owasso Christmas Tree and Berry Farm, Greener Grounds, and Knights Pecan Farm. There was also a taste testing at Knight's pecan farm between various varieties of pecans.	Christmas Tree Agritourism Tear Sheets; Tomato tear sheets; Pecan tear sheets

Ag in the Classroom- Student Events

Number of Participants & Grade Level(s)	Location	Lessons/Activities Used	Resources Given
80 students 5th and 6th grade	Ripley Elementary Schools - Mrs. Shropshire	Christmas Trees - Nicole Jolly Tru Food TV - Christmas Tree Cups - Ag on Rt 66	Ag on Rt 66 magazines

Ag in the Classroom- Resources Mailed or Delivered

Locations where Resources are Mailed or Delivered	
Strother Schools	Insight School of Oklahoma High School
Edmond Memorial High School	Braggs Elementary
White Rock Elementary in McLoud	Bridge Creek Intermediate
Wainwright Elementary School	St. Daniel School in Phoenix, AZ
Creekwood Elementary in Broken Arrow	Texas County Fair
Gore Elementary School	Arrowhead Elementary - Broken Arrow
Straight Elementary in Guymon	Calera Early Childhood
Wilson Elementary School	Silo Public Schools
Western Oklahoma Christian School	Garfield Elementary in Enid
Bennett Homeschool in Ft. Sill	Mark Twain Elementary in Duncan
Edmond Cimarron Middle School	Homeschool Co-op in Lawton
Perkins-Tryon Elementary School	Olustee-Eldorado Public School
Katherine I Daily Elementary in Noble	Konawa Public School
Stratford Elementary School	Bryant Elementary
Caney Valley School	Ida Freeman Elementary Edmond
Victory Christian School	Springdale Elementary School Tulsa
Mills Elementary - Owasso	Tahlequah Public Schools
Atoka Elementary	Valliant Public School
Heavener Elementary	Wilson Elementary
Winding Creek Elementary - Moore	University of Oklahoma

Sand Springs Public Schools	Sparkman Academy
Project ACCEPT	Shady Point Public Schools
Tupelo Schools	Snyder Elementary School
The Sparkman School - Checotah	Kingsgate Elementary Oklahoma City
Minco Elementary	Hennessey Elementary
Fort Cobb-Broxton Elementary	Hanna Elementary
Duke Schools	Hydro Eakly High School
Welch Public Schools	Oologah Lower Elementary
Sharon Mutual Public Schools	Summit Christian Academy
Ravyn at 4-H 4 wheeler office	Mr. Carroll Davenport FFA
Kelly Blair - OK Farm B Women's Committee Tahlequah OK NE district	

Ag in the Classroom- Other Events

Event	Highlights
Oklahoma Ag in the Classroom received a Professional Development Grant from National Ag in the Classroom for \$2,000.00	Oklahoma Ag in the Classroom (AITC) will develop a new professional development learning experience for educators after collaboration with New York Ag in the Classroom. Oklahoma AITC will be attending and shadowing the New York AITC program to learn more about the following programs: Top Cut Beef Experience, Mac & Cheese Challenge, and the Schoolyard Sugaring. These programs at New York all are built with partnerships from their commodity groups and reach students in the classroom through a variety of activities and curriculum. Oklahoma AITC would like to add similar programs in Oklahoma in partnership with some of our commodity groups. Those programs would provide professional development for educators, curriculum related to the program, and engaging activities for students.

Northeast Oklahoma Specialty Crop Educational Tour for teachers



AGRITOURISM

Agritourism - Site Visits

Producer	Location	Category	Highlights
All Pine Christmas Tree Farm	Yukon	Christmas Trees	Visited with Jean and the Ag Youth Council
Cross Timbers Christmas Tree Farm	Harrah	Christmas Trees	Talked about Christmas tree season, upcoming OKLAS conference, and created an Instagram reel.
Chester's Party Barn	Piedmont	Pumpkin Patch	Planning meeting for OKLAS farm to table dinner
Lakeview Market	Yukon	Farm Hub	Planning meeting for OKLAS bus tour
Leafer Lodge Christmas Tree Farm	Stillwater	Christmas Trees	Talked about Christmas tree season and created an Instagram reel.
Owasso Christmas Tree Farm	Owasso	Christmas Trees	Attended Ag In The Classroom bus tour and talked about Christmas tree season.
Sorghum Mill Christmas Tree Farm	Edmond	Christmas Trees	Talked about Christmas tree season and created an Instagram reel.
Wells Christmas Tree Farm	Norman	Christmas Trees	Talked about Christmas tree season, created an Instagram reel
Martinbird Tree Farm	Tuttle	Christmas Trees	Job shadow with 2 ag council members, created Instagram reel

Agritourism - New Producers or Potential Producers

Producer	Location	Category	Highlights
Crisp Christmas Tree Farm	Bixby	Christmas Trees	Site visit, added into the program.
Greener Grounds	Sand Springs	Farm to table	Attended Ag In The Classroom bus tour.
Knight Pecan Farm	Sapulpa	Farm to table	Attended Ag In The Classroom bus tour.

Social media

Facebook

- 22,890 likes
- 25,457 followers

Instagram

- 2,641 followers

Agritourism - Other Activities

- Phone consult/conversations with: D&L Christmas Tree Farm, Stacy Tomas OSU, Leafer Lodge Christmas Tree Farm, Hoffman Pecan Farm, Wells Christmas Tree Farm, Wonderland Farms, Molly & Socks Christmas Tree Farm, Dunagan Farm Hub, McLoud Farmers Market, Charlotte Andrew – Tourism, Harrah Farmers Market, Gary Eubanks – Cross Timbers Christmas Tree Farm
- Zoom consults/meetings: Edible OKC magazine, OSU Extension Vegetable Agent, OK Onion Burger Trail meeting with Beef Council, Strengthfinder OKLAS session – meeting with Gena and Jennifer
- Coordinated OK Grown bags picked up from office/warehouse: Noble Farmers Market, Keith Scott
- OKLAS planning

- News 25 interview about agritourism in Oklahoma
- Craft Beer Forum meeting Stillwater
- Help FFA student with agritourism speech
- Attend Oklahoma quarterly tourism meeting
- Call with West Virginia Dept of Ag
- Conversation with ABLE about wine and beer sold at farm hubs

ECONOMIC DEVELOPMENT

Activity	Action
HFFI	A total of five (5) applications were submitted for the January 2 nd deadline. The selection committee will meet on January 19 th to decide on funding for these projects.
Resilient Food Systems Infrastructure grant	ODAFF was awarded \$6.4 million from USDA-Agricultural Marketing Service (AMS) for the Resilient Food Systems Infrastructure (RFSI) grant program. Oklahoma announced their Request for Applications on December 27 th and will select projects for the Equipment Only and Infrastructure grants through a competitive grant process. A webinar was hosted on January 9 th with 78 individuals participating. The application period will close on February 23 rd .
2020 SCBG Final Report	SCBG grant coordinator received, reviewed & edited reports for eight (8) projects that were combined in Oklahoma's Final Report for the 2020 \$589,536.30 Specialty Crop Block Grant.
2021 SCBG 2nd Annual Report	SCBG grant coordinator received, reviewed & edited reports for Six (6) projects that were combined in Oklahoma's 2nd Annual Report for the 2021 \$599,596.19 Specialty Crop Block Grant.
2021 H.R. 133 SCBG 2nd Annual Report	SCBG grant coordinator received, reviewed & edited reports for Nine (9) projects that were combined in Oklahoma's 2nd Annual Report for the 2021 H.R. 133 \$797,812.77 Specialty Crop Block Grant.
2022 SCBG 1st Annual Report	SCBG grant coordinator received, reviewed & edited reports for Eight (8) projects that were combined in Oklahoma's 1st Annual Report for the 2022 \$574,883.73 Specialty Crop Block Grant

FARM TO SCHOOL

F2S Contact Meetings and Events	Highlights
30th Annual Cherokee Nation Early Childhood Conference Barbara Littledate the Sr. Program Specialist of the Cherokee Nation Early Childhood Unit	Farm to ECE workshop for Head Start teachers and intro to F2S for food service personnel.
AYC Planning Meeting	Met with the AYC planning committee to plan the December session.

Krista Neal: Stillwater Schools Nutrition Services Director	Krista has been in contact with Angus Martin from Better Day Farms and recently made her first purchase of lettuce. I have reached out to her to introduce myself and let her know she can contact me with any questions regarding the Farm to School Program.
Hannah Sipes: Development Director for Global Gardens Maryann Donahue: Executive Director of Global Garden	Discussed partnering and creating a school garden curriculum that can be shared with teachers and schools around the state that would like to start a school garden.
SWRO Quarterly Farm to School State Agency Call	2023 Farm to School Census Updates 2023 Farm to School Grant Updates Healthy Meals Incentive Initiative Subgrants State Round Robin
AITC Advisory Board Meeting	Attended the December AITC Advisory Meeting.
AITC Specialty Crop Tour	Attended and shared F2S info with group.

Trainings	Highlights
NFTSN Webinar Recording: Farm to School: Cafeteria, Classroom, Community Online Recorded Webinar	Overview of farm to school, including why it matters and how it supports the goals of the child nutrition program, promoting successes, and evaluating activities. Speakers include Helen Dombalis and Alena Paisono from the National Farm to School Network.
NFTSN Webinar Series: Resource Roundup Online Recorded Webinar	Featured three new resources from the National Farm to School Network that aim to increase equitable access to farm to school initiatives, including the NFSN Programs and Policy Racial and Social Equity Assessment Tool; Supporting Farm to School with Non-Profit Hospital Community Benefit Dollars; and City & School District Farm to School Policy Opportunities.

Product Summary	Highlights
F2S Monthly Newsletter	The November 2023 F2S Newsletter featured: Grant and Funding Opportunities <ul style="list-style-type: none"> • 2024 Farm to School Grant • Technical Assistance Available for Agricultural Producers who have Experienced Discrimination in USDA Farm Loan Processes • 2024 Youth Garden Grant, KidsGardening • SeedMoney Garden Grants. • PLANTS Grant • Salad Bars to Schools Grant.

Oklahoma Farm to School Producers Google Form	This form was created to gather information on producers who are involved in the Oklahoma Farm to School Program. The goal of this is to be sure the program has updated and accurate information to share with partners, stakeholders, schools, food service companies, and distributors across the state.
Schools Participating in Oklahoma Farm to School Google Form	This form was created to gather information on schools that are involved in the Oklahoma Farm to School Program. The goal of this is to be sure the program has updated and accurate information to share with partners, stakeholders, producers, food service companies, and distributors across the state. The Farm to School Program also wants to know how to better serve your schools, staff, and students.
F2S Monthly Newsletter	<p>The December 2023 F2S Newsletter featured:</p> <ul style="list-style-type: none"> • The Google Form links for Producers and Schools who participate in the F2S Program. • Farm to School Podcast information. • Information on the Healthy Meals Incentives Recognition Award.

F2S Resources	# of Posters	# of Cookbooks
distributed	Total: 17	Total: 35

F2S Social Media: November 15, 2023 – January 8, 2024

- Facebook has **982 followers**, which is up by 30 followers since the last board report.
- Facebook Page Visits: **383**
- Facebook Reach: **5,374**
 - School Garden Contest Highlight Videos: **3**
 - Redbud Farm School Garden
 - Oologah Lower Elementary School Garden
 - Eugene Field Elementary School Garden
 - Posts: **6**
 - Stories: **0**
- Facebook Engagement: The number of reactions, comments, and shares on your posts. This metric counts all reactions and comments.
 - **715**

Farm to School Census Data Collection is in process. Data from the most recent census is below.

OKLAHOMA FARM TO SCHOOL IMPACT

2019 Key Census Findings

Participating Schools

675

314,842



Students Reached

Top Local Foods Purchased

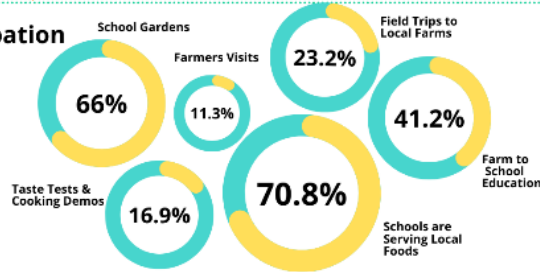


Farm to School Participation

This data shows the different strategies that responding SFAs participating in farm to school use to teach children about food, nutrition, and agriculture

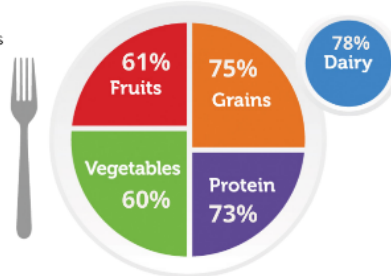
85%

of participating Farm to School SFAs are doing Procurement



Serving Local Foods in School Meals and Snacks

Farm to school means more fresh, local food is on the menu. This data shows participating Farm to School SFAs reported serving the following locally purchased foods every week



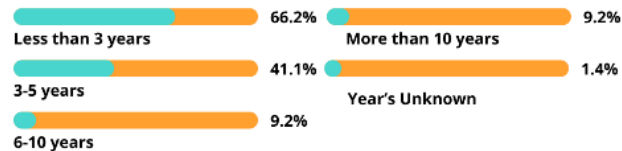
Oklahoma Schools spent approximately

\$12.8 M

On Purchasing Local Foods

Program Participation

Farm to school has been picking up momentum over the last 10 years. See how long SFAs in Oklahoma have been going local.



OKLAHOMA
FARM to SCHOOL

International

Activity	Action
Certificate of Free Sale	<ul style="list-style-type: none"> OK Foods Muldrow OK Lopez Foods QSM

Food Export	<ul style="list-style-type: none"> • We have been working diligently to coordinate the kickoff calls and information needed to recruit buyers for the Focused Trade Mission for Feed in Colombia taking place Feb 20-22nd in Bogota, Colombia • We have 11 companies participating from the Midwest with value added feed and supplement products, conducted kick off calls with each company and planned for the mission • Following up on the last few surveys for missions conducted in 2023 • Recruiting companies for the 2024 brand program, with the ending of ATP it is possible we will not have as many funds this year so recommending getting application in earlier the better, we currently have 12 applications for activities for 2024
USLGE	<ul style="list-style-type: none"> • 2024 Congress is in full swing at the OKC fairgrounds • Cattlemen's Congress tour - 3 breeders - 2 from Mexico and 1 from Scotland tour 3 OK operations: <ul style="list-style-type: none"> ○ Premier Beef Genetics & Sadler Ranch • C4 Ranch • Sandridge Land & Cattle
GIT (Governor's International Team)/ODEC	<ul style="list-style-type: none"> • December meeting- planning for OWTC in April
Misc. Meetings	<ul style="list-style-type: none"> • Commerce meeting to update on MOU with UK and next steps



MADE IN OKLAHOMA COALITION

Made in Oklahoma Coalition – Advertising, Web and Social Traffic

Type	\$ Spent and Information	Highlights
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 – 8 appearances Tulsa – 4 appearances	Natalie Mikels & David Brooks, MIO TV Personalities filmed in-person and remote segments for TV
Restaurants 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.	November – OU Stadium, Levy Food Service December – The Hamilton, OKC January – The Paycom Center/Levy Food Service, OKC, OK
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		○ 4000+ distribution list
OK Living Partnership highlighting MIO Recipes	Highlights 2-3 MIO recipes per month - Free publication to electric coop members	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 – - Classic Green Bean Casserole - Browned Butter Mashed Potatoes - Sweet Tea Brined Turkey December– - Dead Parrot Rum Bread Pudding - Peppermint Brownies - Chicken and Dumplings - Rudolph Peanut Butter Cookies January – - Sheet Pan Pasta with Spinach, Tomato and Bacon - Mini Baked Frittatas - Blackeyed Pea Cakes
November Retailer of the Month	Jumbo Foods	Enid
December Retailer of the Month	Pruetts Food	OKC and locations throughout Southeast OK
January Retailer of the Month	Williams Foods	Statewide locations

Made in Oklahoma Coalition – Other Activities

Activity	Information
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MIO Shopper Sweepstakes & free pork lunch at Jumbo Foods - November 28 th	Staff worked with Jumbo Foods owners and Kylee Deniz, Executive Director for the Oklahoma Pork Council to sponsor a MIO Shopping Spree and a Free Pork Lunch for Jumbo Foods Shoppers. There were over 800 entries for the Shopper Sweepstakes, and we gave away 400 pulled pork sandwiches in an hour. The winner of the sweepstakes won over \$1000 worth of MIO groceries. It was a successful partnership, and all partners were happy with the results.
Give a Ham Challenge Launch - November 28 th	As part of the OK Pork Council's Give a Ham Campaign, they challenged staff and the MIO Coalition to give a ham. MIO participated with a video and social post and passed the challenge along to all members.
MIO Christmas Party and December Meeting - December 1st	Staff and MIO members participated in the annual MIO Christmas party which was held in conjunction with our December meeting. This was an opportunity for members to come together and network and interact with each other. The event was well attended with approximately 50 members present.
MIO Sampling Event at Phelps Market in Mannford - December 6 th	Phelps Market is a family owned and operated store that has been open for over 50 years in the Mannford community. This MIO sampling event was held on Senior Day which translated into added foot traffic, and increased sales. Eight MIO companies participated. In addition, MIO had a choice spot right by the front door where all the MIO products were featured on a festive, holiday, table.
Restaurant of the Month Visit to the Hamilton - December 13 th	Staff, along with MIO Food Service Committee Chair, Colt Clark, and MIO Food Service Advocate, Cindy Davice, visited the Hamilton to present them with their Restaurant of the Month award. We took photos and videos for social media content and congratulated them for their win.
Speaking Engagement at Tulsa Executives Meeting - December 15 th	Staff, along with MIO President, Courtney Talbot, were asked to speak to a group of 30 current and former business executives from the Tulsa area. This particular group has been getting together for over 40 years every Friday. The group was very engaged and eager to learn about the mission of the MIO Coalition.
MIO Tabling Event at OKC Thunder Game v. LA Lakers - December 23 rd	To draw attention to the new MIO Court Cart and the MIO brand, the Coalition participates in tabling events at 5 Thunder games throughout the season. The Lakers game drew a big crowd, and the Court Cart and booth received a lot of foot traffic.
Market Development Staff Meeting - January 4 th	ODAFF Market Development staff got together for a staff meeting and lunch at Pryor's Pizza Kitchen in Selah, OK.



MADE IN OKLAHOMA PROGRAM

Events	Date	Location	Details
Basic Training	Nov. 16	Stillwater	Presented to Basic Training class regarding MIO Program and benefits
MIO Coalition Meeting	Dec. 1	OKC	Monthly coalition meeting
Ag Day Planning	Dec. 21	OKC	Beginning Planning for 2024 Ag Day

New Producers:

Coram Deo Flower Farm	Turning Oklahoma	Happily Ever Crafter	Urban Smirk
M&M Metal Design	Love2DIY LLC	Stitched by Sisters	Sabatia
Jaylyn's Freshies	Padiano's Kitchen	Spreading Stardust	Circle Dog Soap LLC
2BroadsBoutique	The Garden House	Balkan Beauty Knit LLC	Red Dirt Designs OK
MissNile Beauty Products	Dreaming Jaguar Creations	Spring Fed Family Farms	The Studio by Sarah
The Brighter Side	Thunder Raceway Publishing	Bartlow's BBQ	Serenity Pottery

Other Made in Oklahoma Activities:

- Planning for 2024 Tulsa Home and Garden Show
- Planning for 2024 Ag Day at the Capitol
- Planning with Ashley Dooley of News Channel 8 in Tulsa to hold segments featuring Made in Oklahoma companies for four months.
- Worked with social media intern to develop posts, reels and stories to highlight our members
- Connected with several new retail locations, helping them obtain Made in Oklahoma products to sell in their stores

VITICULTURE & ENOLOGY

Viticulture & Enology - Site Visits

Producer	Location	Category	Highlights
360 Farms	Webbers Falls	Winery	Delivered wine trails passports. Discussed progress on slightly off wine from March that was able to be salvaged. Invited to wine faults class in January. Talked about ODOT issues relating to TODS signs. Contacted ODOT and found criteria to possibly get them signage help.
On the Lamb	Stigler	Winery	Delivered wine trails passports and had lunch with owner, Zach Lamb. Talked about the biggest issues he has been facing (mainly ABLE) and what we could do to help. Decided an info graphic with ABLE FAQs might be best for current and upcoming winemakers.
Pecan Creek	Muskogee	Winery	Delivered wine trails passports and toured newly built expansion of tap room. Walked the vines and discussed a fungal issue plaguing some old growth estate vines. Tank tested a few experimental wines and discussed consumer opinions versus ‘fine wine’ opinions and how to apply that to directional choices.
OkeOzark	Norman	Winery	While their winery is in Salina, I met up with them in Norman for wine trails passport delivery. Explained how the passports work. They asked me to look into whether their vineyard falls within an existing AVA. After returning to the office a few days later and studying the original application and some maps, we were happy to discover that they are. Oklahoma’s only AVA grown grapes and wine.
BackRoad	Okay	Vineyard/Winery	Dropped off passports
Bois d’Arc	Madill	Winery	Delivered Wine Trails Passports. The owner, Wes, walked me through all of their updates and expansions. We discussed the rewrite of the Texoma AVA boundaries and how that would include him. He was also our winemaker of the month.
Rusty Nail	Sulphur	Winery	delivery of the wine trails passports.

Old Silo	Tishoingo	Winery	Delivered wine trails passports and had lunch with the owners, The Rileys. We talked about the new program as well as the brochures, how we can distribute those, working with local businesses on pop ups, and AVA expansion. We went into detail about the app and how to update/create a log in.
B&G Meadery	Stonewall	Meadery	Delivered passports
Cotton Blossom	Marlow	Winery	Delivered wine trails passports..
Entwined Vines	Anadarko	Winery	Delivered wine trails passports..
AVA Presentation	Denison, TX	Meeting	Met with North Texas grape growers and asked permission to redraw the boundaries of their AVA. They listened kindly, and told me to go ahead and go forth, but to keep them in the loop as I make progress.
Chesters Party Barn	Yukon	Meeting	Toured venue for the Farm to Table dinner for OKLAS. Discussed beverage pairing, service options, and menu planning.
Chickasha Wine Festival	Chickasha	Festival	Caught up with and checked on Native Spirits, Entwined Vines, Cotton Blossom, OkeOzark, Wildhorse Canyon, and Coal Creek. OkeOzark was using the passport program.
Tidewater	Drumwright	Winery	Delivered Wine trails passports Discussed social media advertising and the app development.
High Gravity Fermentations	Tulsa	Winery	Delivered passports and explained how the program works.
Arri'bin Hills	Owasso	Winery	Delivered passports. Her new tastingroom is beautiful. Explained how the program works. Discussed issues with ABLE. Invited her to the wine faults class.
Dancing Skeleton Meadery	Sapulpa	Meadery	Visited with Alex for the first time. Delivered the passports and explained the premise. Talked with him about agritourism as a whole and the different ways that we can help them out with marketing/connections in the future if they ever should need it.
Monkey Island	Grand Lake	Winery	Passport drop off.
Sparks	Sparks	Winery	Delivered passports
Whispering Meadows/Urban/Country Aire	McAlester	Wineries	Owned by the same people, I dropped off the passports for all 3 at Whispering Meadows and toured their impressive facility. Got Doug set up with updating the app effectively for all 3. Talked about their 2024 plans and marketing strategy.

Blue River Valley	Durant	Winery	Delivered passports and talked about tying the southern central to the southeast in an effort to capitalize on the strong tourism that Hochatown gets.
Rock House	Talihina	Winery/Vineyard	Met up with Christine. She walked me through the history of Rock House and her business. She will be our January winemaker of the month. Delivered the passports and talked about bringing in SE tourists from Broken Bow.
Girls Gone Wine	Hochatown	Winery	Dropped off passports and explained how they worked.
Fish Tales	Hochatown	Winery	Briefly met the husband of the owner couple. They were very busy so it was a quick passport dropoff.
Knotted Rope	Hochatown	Winery	Dropped off the passports and explained their use.
Coal Creek/Summerside	Yukon	Winery	Delivered passports to their quite large location. Explained use and met with main employee for the first time.
Native Spirits	Norman	Winery	Delivered passport. Explained their use and answered questions that they had about the wine trails app.
Canadian River Valley	Slaughterville	Winery	Delivered passports.
Water's Edge	Moore	Winery	Visited their location for the first time and delivered the passports. This location is within the city of Moore and will be good publicity to get people out on the trails.

Viticulture & Enology - Other Activities

- Worked on Wine Faults presentation for presentation at OSU on January 19th.
- Granted five free tickets to the wine faults class to winemakers who are new/further away
- Received approval to begin working on Texoma AVA boundary rewrite.
- Attended tourism meeting. Announced passport program and made great connections with Tourism who joint released our passport program.
- Maintained and sent out our regular newsletters.

MARKET NEWS SERVICES

November 14, 2023 – January 5, 2024

- **Grain Report:**

	November 14,2023, January 5, 2024		DIFFERENCE
WHEAT: (bu)	\$4.95-\$5.87	\$5.13-\$5.89	\$0.18 to \$0.02 Higher
MILO: (bu)	\$4.73-\$4.98	\$4.51-\$4.71	\$0.22 to \$0.27 Lower
SOYBEANS: (bu)	\$12.80-\$13.37	\$11.51-\$12.11	\$1.29 to \$1.26 Lower
CORN: (bu)	\$4.68-\$5.18	\$4.41-\$4.86	\$0.27 to \$0.32 Lower
COTTON: (lb)	73.93 cents	75.69 cents	\$1.76 Higher

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

FEEDER STEERS

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

- (12-20-22) \$185.00-235.00 Wtd. Avg \$210.00
- (12-19-23) \$249.00-331.00 Wtd. Avg. \$290.00

HEIFERS

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

- (12-20-22) \$160.00-182.00 Wtd. Avg \$171.00
- (12-19-23) \$211.00-233.00 Wtd. Avg. \$222.00

- **Weekly Report:**

- Six weekly Oklahoma Market Reports were sent to 11,134 subscribers
November 14, 2023, January 5, 2024 (**up 242 subscribers since last report**).

- **Voice Messaging System:**

- The market news voice messaging system during
- Monthly Total: November 14,2023, January 5, 2024, **6,824 Accessed Times**
- Last Report September 29, 2023, November 14,2023, **6,712 Accessed Times**
- Compared to Last Month: **Accessed Times-is UP 112**

- **Oklahoma Agriculture Market News**

- **Facebook Page**
 - Likes/Followers 558
 - **UP 17 Likes/Followers**
 - People reached through pasted report: 936 people

- **Oklahoma Hay Directory**
 - Hay Directory
 - **70 people are on the Oklahoma Hay Directory.**
- **Hay Report**

This Month: November 14,2023, January 5, 2024 Hay Traded 21,788
Last Year November 11,2022, January 6, 2023 Hay Traded 5,958
UP 4,679 Bales Reported

OKLAHOMA HAY MARKET REPORT 1-5-24

Receipts: 6,391 Last Reported: 5,895 Year Ago: 1,130

Compared to the last report: The demand remains low and most of our hay producers are still not trading much hay and only delivering to long-time customers. Many producers report they are interested in seeing if this winter storm will help move the hay market.

Trends:

Alfalfa Large squares \$180-\$200 a ton
 Alfalfa Rounds - No Trend
 Grinding hay - No Trend
 Bermuda 5x6 rounds - \$70-\$100 a bale
 Bermuda Large Squares - No Trend
 Grass Hay 4x5-4x6 - \$60-\$70 a bale
 Grass Hay 5x6 - \$70-\$80 a bale

The Oklahoma Mesonet Drought Monitor shows we are at 0 percent in exceptional drought, 0 percent in an extreme drought, 3.08 percent in severe drought, 21.64 percent in moderate, 44.32 percent in abnormally dry conditions, 55.32 percent that has no drought conditions.

*** The next report release will be on January 19th***

Central

Alfalfa: Premium/Supreme (Trade/Per Ton)

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square	640	200.00	200.00	Delivered

Alfalfa: Good/Premium (Trade/Per Ton)

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square	720	180.00	180.00	Delivered

Bermuda Grass: Good/Premium(Trade/Per Bale)

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Medium Round	840	65.00	65.00	Delievered

North Central

Bermuda Grass: Premium/Supreme (Trade/Per Bale)

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	300	100.00	100.00	F.O.B

Bermuda Grass: Premium/Supreme (Trade/Per Bale)

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Small Square	278	12.00	12.00	F.O.B

Bermuda Grass: Premium(Trade/Per Bale)

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	220	90.00	90.00	F.O.B

Bermuda Grass: Fair/Good(Trade/Per Bale)

Size	Qty	Price Range	Wtd.Avg.	Freight/Used

Large Round	353	80.00	80.00	F.O.B
Prairie/Meadow Grass: Good (Ask/Per Bale)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round		70.00		F.O.B.

Northeastern

Prairie/Meadow Grass: Good (Trade/Per Bale)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Medium Round	800	65.00	65.00	F.O.B.

Northwestern

Alfalfa: Supreme (Trade/Per Bale)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	80	225.00	225.00	Delivered
Alfalfa: Supreme (Trade/Per Bale)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Small Square	14	14.00	F.O.B	
Alfalfa: Good/Premium (Trade/Per Ton)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square	640	180.00	180.00	Delivered
Bermuda Grass:Premium (Trade/Ton)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	520	185.00	185.00	Delivered
Bermuda Grass:Good/Premium (Trade/Ton)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square3x4	400	150.00	150.00	Delivered
Grass:Good(Trade/Ton)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	440	100.00	100.00	Delivered



Oklahoma Department of Agriculture,
Food, and Forestry
January Board Report for the
Agricultural Environmental
Management Services Division
November 18, thru December 31, 2023

AEMS Division Activities

- AEMS Staff attended the 2023 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: 7

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:

11	Complaints received and investigated this reporting period.
10	Complaints closed this reporting period.
Complaints Received - Breakdown	
Cattle - 3	
Swine – 0	
Poultry-1	
Misc. Animal - 1	
Other – 1	
Animal Shelter -2	
Pet Breeder- 3	
58	Year-to-date complaints received in FY 24
35	Year-to-date complaints closed in FY 24
20	LMFO/CAFO inspection and technical assistance.
283	Poultry inspections and technical assistance.
51	Pet Breeders/Shelters inspections and technical assistance.

CAFO and LMFO Activities - Month and Fiscal Year 2024

	Nov 18-Dec 31, 2023	FY 24 Total
Complaint or Compliance Follow-ups	15	55
Annual Inspections	53	317
Technical Assistance with Contacts	20	111
Site Visit/Review – No contact made	4	29

Poultry Activities – Month and Fiscal Year 2024

	Nov 18-Dec 31, 2023	FY 24 Total
Complaint or Compliance Follow-ups	5	10
Annual Poultry Inspections	72	185
Poultry Technical Assistance	220	894
Site Visit/Review – No contact made	52	233
Eucha-Spavinaw CNMP Written	12	51

Pet Breeders Activities – Month and Fiscal Year 2024

	Nov 18-Dec 31, 2023	FY 24 Total
Complaint or Compliance Follow-ups	19	61
Breeder/Shelter Technical Assistance provided to owner/operator	49	162
Breeder/Shelter Annual Inspections	20	79
Breeder/Shelter Close out	2	9

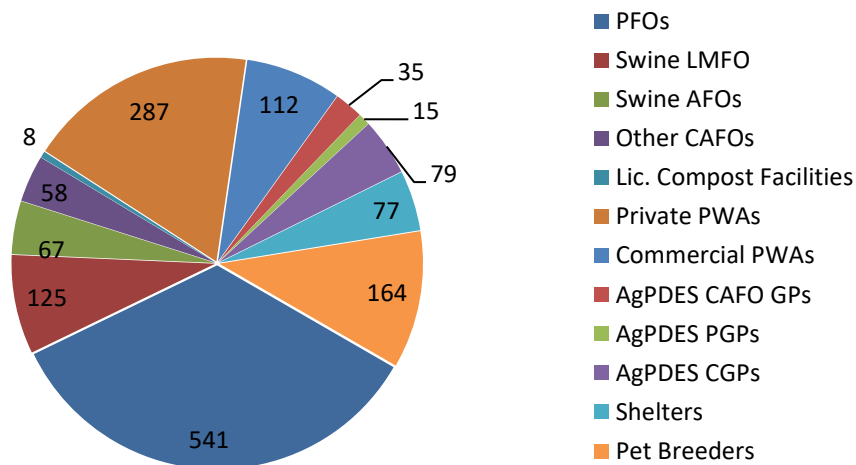
AGPDES – Month and Fiscal Year 2024

	Nov 18-Dec 31, 2023	FY 24 Total
Complaint or Compliance Follow-ups	0	0
Site Inspections (Annual or Compliance Follow-ups)	1	4
Technical Assistance provided to owner /operator	0	12

Composting Activities – Month and Fiscal Year 2024

	Nov 18-Dec 31, 2023	FY 24 Total
Complaint or Compliance Follow-ups	9	25
Site Inspections (Annual or Compliance follow-up)	1	7
Technical Assistance provided to owner /operator	5	17

Current FY 24 AEMS Numbers



Respectively,

Teena G. Gunter
AEMS Division

**BEFORE THE STATE BOARD OF AGRICULTURE
OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
JANUARY 2024 BOARD REPORT
REGARDING NOVEMBER 13, 2023 THROUGH JANUARY 7, 2024
ACTIVITIES OF THE OFFICE OF GENERAL COUNSEL**

AMOUNT OF ADMINISTRATIVE FINES COLLECTED:

Amount to Date (2023)	Amount of Fines for this Board Meeting
\$354,695.00	\$17,400.00
\$207,400.00	2022
\$57,475.00	2021 Total (5/31-12/31/2021)

CONTRACTS REVIEWED OR DRAFTED (48):

Marketing: 27
CPS: 3
Forestry: 11
Admin: 3
Wildlife: 3
Food Safety: 1

ADMINISTRATIVE HEARING PROCEEDINGS:

Total Number of Open Cases: 109
Total Number of New Cases: 75
Total Number of Cases Closed: 30
NOVs Sent: 49

OTHER ACTIONS AND PROCEEDINGS:

<i>Laura Garrison v. State of Oklahoma, ex rel. Oklahoma Department of Agriculture Food and Forestry</i> , 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.
<i>Upton's Naturals Co v. Stitt and Arthur</i> , 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.
<i>William Grossman v. Lori Howard et al.</i> , 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.

Spring Creek Coalition v. ODAFF and Trong, Cherokee County Case Number CJ-2021-29: Petition seeking declaratory and injunctive relief. Answer filed.

Spring Creek Coalition v. ODAFF and Phan, et al., 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 had March 2, 2023. Supplement brief filed regarding Motion to Dismiss.

MEETINGS:

Date	Activity
November 13, 2023	OMES HCM Governance
November 13, 2023	Employee Assistance Program
November 13, 2023	Pet Breeders case status
November 13, 2023	AEMS Legal
November 14, 2023	Directors Meeting
November 15, 2023	WOTUS Post Sackett Webinar
November 27, 2023	Oklahoma Source Water Collaborative Meeting
November 28, 2023	OWRB Dinner
November 28, 2023	OGC Staff
November 28, 2023	AgPDES
November 28, 2023	AEMS Staff
November 29, 2023	Directors
November 29, 2023	Governor's Water Conference
November 29, 2023	Governor's Water Conference
December 4, 2023	AEMS Personnel
December 4, 2023	AEMS Legal
December 5, 2023	CLO Audit Committee
December 6, 2023	State Board of Agriculture
December 6, 2023	CPS Annual
December 6, 2023	Legislative Monitoring Committee
December 8, 2023	OBA GALPS Annual CLE
December 11, 2022	Employee Assistance Program
December 11, 2023	OPA Open Meetings/Open Records
December 11, 2023	Food Safety 10,000 Bird
December 13, 2023	Pesticide Advisory Committee Meeting
December 13, 2023	OBA Women in Law
December 13, 2023	AEMS Composting
December 14, 2023	ALJ Docket
December 14, 2023	Director's Meeting

December 14, 2023	OWRB Comprehensive Water Plan Public Meeting
December 14, 2023	OGC Docket
December 15, 2023	OBA ELS Volunteer Event
December 18, 2023	AEMS Legal
December 19, 2023	Director's Meeting
December 19, 2023	AEMS Retreat
December 20, 2023	AEMS Retreat
December 21, 2023	OBA ELS Annual CLE
January 3, 2024	AgPDES/EPA
January 3, 2024	Directors
January 4, 2024	Administrative Rule Hearings
January 5, 2024	Oklahoma Wheat Commission

RULE ACTIVITIES:

<p>Chapter 10. Agricultural Products (Permanent FY 2024): On November 7, 2023, the Notice of Rulemaking Intent was submitted and accepted by the Office of Administrative Rules. Publication will occur on December 1, 2023. Public comment was open from December 1, 2023, through January 4, 2024. A public hearing took place on January 4, 2024.</p>
<p>Chapter 15. Animal Industry (Permanent FY 2024): On November 7, 2023, the Notice of Rulemaking Intent was submitted and accepted by the Office of Administrative Rules. Publication will occur on December 1, 2023. Public comment was open from December 1, 2023, through January 4, 2024. A public hearing took place on January 4, 2024.</p>
<p>Chapter 17. Water Quality (Permanent FY 2024): On November 7, 2023, the Notice of Rulemaking Intent was submitted and accepted by the Office of Administrative Rules. Publication will occur on December 1, 2023. Public comment was open from December 1, 2023, through January 4, 2024. A public hearing took place on January 4, 2024.</p>
<p>Chapter 20. Forestry (Permanent FY 2024): On November 7, 2023, the Notice of Rulemaking Intent was submitted and accepted by the Office of Administrative Rules. Publication will occur on December 1, 2023. Public comment was open from December 1, 2023, through January 4, 2024. A public hearing took place on January 4, 2024.</p>
<p>Chapter 30. Consumer Protection (Permanent FY 2024): On November 7, 2023, the Notice of Rulemaking Intent was submitted and accepted by the Office of Administrative Rules. Publication will occur on December 1, 2023. Public comment was open from December 1, 2023, through January 4, 2024. A public hearing took place on January 4, 2024.</p>
<p>Chapter 37. Food Safety (Permanent FY 2024): On November 7, 2023, the Notice of Rulemaking Intent was submitted and accepted by the Office of Administrative Rules. Publication will occur on December 1, 2023. Public comment was open from</p>

December 1, 2023, through January 4, 2024. A public hearing took place on January 4, 2024.
Chapter 40. Market Development (Permanent FY 2024): On November 7, 2023, the Notice of Rulemaking Intent was submitted and accepted by the Office of Administrative Rules. Publication will occur on December 1, 2023. Public comment was open from December 1, 2023, through January 4, 2024. A public hearing took place on January 4, 2024.
Chapter 45. Water Quality Standards Implementation Plan (Permanent FY 2024): On November 7, 2023, the Notice of Rulemaking Intent was submitted and accepted by the Office of Administrative Rules. Publication will occur on December 1, 2023. Public comment was open from December 1, 2023, through January 4, 2024. A public hearing took place on January 4, 2024.
Chapter 55. Commercial Pet Breeders and Animal Shelters (Permanent FY 2024): On November 7, 2023, the Notice of Rulemaking Intent was submitted and accepted by the Office of Administrative Rules. Publication will occur on December 1, 2023. Public comment was open from December 1, 2023, through January 4, 2024. A public hearing took place on January 4, 2024.

OPEN RECORDS REQUESTS (30):

AEMS: 2
CPS: 15
AIS: 5
Pet Breeders: 3
Forestry: 5

OTHER ACTIVITIES:

Phone calls or emails with the public: 13
Assistance to industry: 7
Assistance to AEMS: 8
Assistance to CPS: 9
Assistance to Wildlife Services: 4
Assistance to Forestry: 14
Assistance to AIS: 4
Assistance to Admin: 6
Assistance to Human Resources: 4
Assistance to Market Development: 4
Assistance to other state agencies: 5
Assistance to federal agencies: 0
Assistance to Food Safety: 7
Assistance to NASS: 0
Assistance to Executive Office: 17
Assistance to Lab: 0
Assistance to Investigative Services: 1

Assistance to Legislature: 3
Assistance to Attorney General: 0
Assistance to Public Information: 0

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Teena G. Gunter', with a stylized flourish at the end.

Teena G. Gunter
General Counsel

FOOD SAFETY BOARD REPORT

DECEMBER 2023

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 2,844,133 pounds of poultry – boneless/skinless leg meat & bone in/skin on parts and ground meat. ODAFF inspectors provided USDA shell egg grading on 78,540 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. 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
- Four organic processors
- Collected two 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 four requests for organic crop applications, one request for an organic livestock application and two requests for organic processing applications.

POULTRY & EGG GRADING, PRODUCE AND ORGANIC SECTION

PRODUCE SAFETY SECTION

- Justin McConaghy, Bryan Buchwald and Jamie Allen-Hitt attended the NASDA Produce Safety Consortium in St. Louis, MO
- Contacted 9 farms to determine coverage/exemption under the Produce Safety Rule
- Assisted 3 farms with remote technical assistance
- Assisted 1 farm with on-site technical assistance
- Visited 4 farmers markets/market hubs providing outreach and education to producers and to collect farm inventory
- Sent an e-mail newsletter to inform farms of the latest information on Produce Safety
- Regular conference calls with TX, LA, AR, NM, MO, MS

HOMEMADE FOOD FREEDOM ACT

OKLAHOMA MEAT INSPECTION SERVICES INVESTIGATIONS AND COMPLIANCE ACTIVITIES

Planned Compliance Reviews	08
Random Compliance Reviews	186
Person-to-Person Contacts	72
Special Investigations and/or Projects	05
Reports of Apparent Violations	00
Detentions	00
Consumer Complaints	10
Verbal Warnings Issued	09
Letters of Warning Issued	00
Samples Submitted to Lab for Analysis	00
Accident Investigations	01
Administrative Procedures Act (Pending)	02 (Enid Packing) (The Forum Group LLC)

The Oklahoma Highway Patrol notified Meat Inspection Compliance with one (1) truck accident in the month of December 2023.

See details below:

ACCIDENT LOCATION	ANIMAL/PRODUCT	DISPOSITION
I-40 East of Shawnee	31 head of mixed cattle	11 died and were sent to the OKC Environmental Land Fill

Highlighted Activities

During the course of Random Reviews and Anonymous Consumer Complaints, Compliance and Investigation Services sent out (0) Letter of Warning for Violations of the Oklahoma Meat Inspection Act and/or State Statutes

OKLAHOMA MEAT INSPECTION SERVICES

INVESTIGATIONS AND COMPLIANCE ACTIVITIES

SLAUGHTER MEAT INSPECTION

Number of Cattle	1,782
Total Beef Condemned	27,370 lbs
(Beef heads & livers)	(avg. H wt 20 lbs, avg. L wt 10 lbs)
Number of Swine	190
Total Pork Condemned	2,112 lbs
(Pork heads & livers)	(avg. H wt 10 lbs, avg. L wt 2 lbs)
Number of Sheep and Goats	7,420
Total Condemned	0 lbs
Number of Chickens	873
Number of Rabbits	0
Total Condemns	0 lbs
Number of Buffalo	33
Total Condemns	580 lbs
TOTAL MEAT INSPECTED	1,247,400 lbs

AVG. CARCASS WT
Beef 700 lbs, Pork 250 lbs,
Sheep/Goat 100 lbs

AVG. SWINE
HEAD/LIVER
Head 10 lbs / Liver 2 lbs

AVG. CARCASS WT
Head 20 lbs / Liver 10 lbs

AVG. LAMB/GOAT HEAD
Head 2 lbs

PROCESSED BOXED MEAT INSPECTED

Processed Red Meat	1,080,573 lbs
Condemned on Reinspection	0 lbs
Poultry (Portions)	500,332 lbs
Condemned on Reinspection	0 lbs
Rabbit Meat	0
Condemned on Reinspection	0 lbs
Exotic Deer Meat	0
Condemned on Reinspection	0 lbs
TOTAL PROCESSED MEAT INSPECTED	1,580,869

MEAT SAMPLE ACTIVITY

37 Samples Submitted for Analysis
37 Samples Analyzed
37 Samples Negative Analysis

0 (Heat) Samples Not Analyzed
0 Samples Non-Compliant

DAIRY SECTION

Dairy staff conducted routine inspections at dairy farms, dairy plants, performed equipment checks and collected farm and plant dairy samples throughout the state.

There were no dairy farm or plant surveys due during this board period.

FDA Milk Specialist, Clinton George, conducted multiple FDA Check Ratings in Southeast Oklahoma on DFA SE Council 31 (BTU 40-031) and DFA SE Council 32 (BTU 40-032). Each check rating will receive a passing score.

Continuing our efforts, Dairy Services will be sampling Swan Bros. Dairy Inc. for *Listeria* and *Campylobacter* on a monthly basis after receiving notification from the Oklahoma State Department of Health of increased *Campylobacter* cases in Rogers county.

Dairy services was approved for an AFDO training grant in the amount of \$36,063.00. These funds may be used by state rating officers, dairy inspectors, and dairy laboratory staff for required training and conferences in 2024.

Dairy services was also approved for an additional AFDO equipment grant in the amount of \$10,699.00 for specific inspector testing supplies and milk laboratory equipment.

Sincerely,



Scott Yates

Director of Food Safety

Communications

Compiled 1/11/24

Social Media Highlights

AYC Volunteers During December Session – Dec. 6 | The Ag Youth Council members volunteered at Food and Shelter in Norman to help spread joy during the holiday season.

They stocked shelves, assisted members of the community with shopping and prepared emergency care kits.



ODAFF Staff Shows Christmas Spirit – Dec. 22 | Congratulations to Sherrie Davis for winning the “Best Costume Award” during ODAFF’s Ugly Christmas Sweater Contest.

Wells Christmas Tree Farm donated a beautiful Christmas tree for all to enjoy throughout the month of December. A big thanks to Forester Riley Coy for his work gathering the tree.

RFSI Program Launches – Jan. 3 | The RFSI Program aims to build resilience in the "middle of the supply chain", which includes activities like processing, aggregation, and distribution of agricultural products between leaving the field and entering the marketplace.

Sec. Arthur promoted the program with a video shoot at Mollycoddled Hash Slinger in OKC.



“Gathering of the Gals” at Cattlemen’s Congress – Jan. 7 | The first “Gathering of the Gals” event got rave reviews.

A big thank you to all the terrific guest speakers who shared their unique perspectives of the livestock industry, as well as everyone who attended.

Social Media Impact

Facebook

21,984 followers (up 135 followers since last period)

Since December 6, 2023:

- Posts and content reached 62,343 users (up 35.7% from last period)
- 21,569 Page Likes (up 138 from last period)

Instagram

3,443 followers

Since December 6, 2023:

- Posts and content reached 3,867 users (up 7.1% from last period)
- 69 new Instagram users have followed the account

News & Notes

Give-A-Ham Promotion / Sec. Arthur appeared on News 9 at 9 Nov. 30th to accept Gov. Stitt's challenge to Give-a-Ham.

ODAFF Service Recognition – Dec. 5 / Employees were recognized with service awards for serving the state agency for 5,10, 15, 20, and 25+ years.

Sec. Arthur Endorses Letter Asking to Pause New Beef Imports Rule – Dec. 13 / Sec. Arthur added her signature to a letter urging U.S. Secretary of Agriculture Tom Vilsack to pause the implementation of a rule that would allow the importation of beef from Paraguay.

ODAFF 2023 Accomplishments – Dec. 28 / Another productive year in agriculture resulted in many accomplishments for ODAFF.

JANUARY 25, 2024 BOARD MEETING

PURCHASES/CONTRACTS

ADMINISTRATIVE SERVICES

FY24 - \$5,1000.00 – AED – To bring our safety equipment up to date and to ensure every floor has an AED cabinet and device, the purchase of 2 more cabinets and the replacement of the current cabinets are necessary. This will make each floor uniform and update the safety equipment both in the Lab and ODAFF buildings. Lab has agreed to split the cost for the devices and cabinets needed for their floors. Without this purchase, we would have only one AED device for all of Lab and have multiple keys on hand to get into the cabinets versus one universal key as well as Cabinets with damaged and broken alarms on them.

FY24 - \$2,000 – Safe - Finance needs to replace the safe currently housed in the Finance area due to the aging safe and repairs needed on the current safe. The safe is utilized for multiple things including securing forms of payments and important documents.

FY24 - \$3,700.00 – Gun Safe - Investigations needs a large gun safe in the evidence room so that they can properly secure weapons. This will provide additional security for the firearms kept on property so that there is not direct access to these items. As this could pose a safety risk if they are not kept securely in a gun safe.

FORESTRY SERVICES

FY24 - \$12,000

Purchase of multiple skid Steer's attachments & supplies. **Justification:** Purchase of multiple skid Steer's attachments & supplies to complete mechanical mitigation projects currently identified in Community Wildfire Protection Plans .These will also be used for treating hazardous fuels in and around At-Risk Communities statewide This program is part of the National Cohesive Wildland Fire Management Strategy with the intent of developing fire adapted communities. Funding for this purchase will come from the 2023 SIAF Response. 100% of this purchase will be reimbursed.

FY24 - \$140,000

Purchase firefighting personal protective equipment for OFS employees. This can include clothing and supplies/equipment needed. **Justification:** Required to supply OFS firefighters with mandatory personal protective equipment (PPE) and other supplies/equipment. Funding for this purchase will come from the FY22 US Forest Service, State Fire Assistance – Response Grant, 2020 VFA, 2021 VFA, & 2023 SFA Response. 100% of this purchase will be reimbursed.

FY 24 - \$15,000

Purchase three (3) UTV trailers to haul firefighting UTV's. Trailers will be 14-16 ft. tandem axle with heavy-duty axles to accommodate hauling of UTV loaded with skid unit and water as well as additional equipment and supplies related to wildland fire activities. **Justification:** Funding for this purchase will come from the 2023 SFA Response. 100% of this purchase will be reimbursed.

FY24 - \$26,000

Purchase laptop computers that will be used for supporting various Fire Management Programs including fire suppression, prescribed burning, dispatching, hazardous fuels mitigation and grant programs. **Justification:** These machines will be replacing outdated models and equipping newly hired personnel. Funding for this purchase will come from the FY22 US Forest Service, State Fire Assistance – Response Grant. 100% of this purchase will be reimbursed.

FY24 - \$55,000

Purchase one (1) 1/2-Ton pickup. The 1/2-Ton will include emergency lighting, toolboxes, mobile radios, 4-wheel drive, brush guards and other features needed for off-road work. **Justification:** This truck will be used to support our CWDG grant promotion, grant development, implementation and overseeing grant projects, fire management program including wildfire suppression, fuels mitigation and emergency response. Funding for this purchase will come from the FY23 US Forest Service, CWDG /SIDG Grant. 100% of this purchase will be reimbursed.

FY24- \$75,000

Purchase one (1) 75-gallon fire skid. This skid will be used in support of hazardous fuels treatment by both mechanical and prescribed burning in and around Turner Falls Park.

Justification: This program is part of the National Cohesive Wildland Fire Management Strategy with the intent of developing fire adapted communities. Funding for this purchase will come from the FY22 US Forest Service Community Wildfire Defense Grant. 2023-DG-11083140-401. 100% of this purchase will be reimbursed.

FY 25- \$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.

FY25 - \$25,000

Renewal of agreement/membership with Western Gulf Forest Tree Improvement Cooperative (WGTIP). **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 WGTIP partners.

FY25 - \$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.

FY25 - \$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.

FY25 – \$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.

FY25 – \$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.

FY25- \$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.

FY25- \$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.

FY25- \$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. **Justification:** Without this purchase, the soil will not meet the requirements to grow the seedlings and the seedlings will not survive for their intended use.

FY25 \$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. **Justification:** Without the soil media, OFS would not be able to provide containerized seedlings.

FY 25- \$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. **Justification:** Without our containerized seedling options, these customers would have failure of their conservation plantings.

FY25- \$15,000

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 embryonic-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.

FY25 - \$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.

FY25 - \$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.

FY25 - \$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.

FY25 - \$12,000

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

FY25 - \$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 25- \$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.

FY25 - \$7,000

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

FY25 - \$100,000

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.

FY25 - \$200,000

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.

FY25 - \$200,000

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.

FY25 - \$55,000

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)

FY25 - \$19,000

Electric, phone/internet, utilities (natural gas, water, trash service, sewer) for 3 offices: Tahlequah, Sallisaw, & Jay. **Justification:** Above is a necessary expenditure to operate 3 offices. The operation of these offices is crucial to maintain emergency response radio communication, as well as serve as a location for Forest Rangers to maintain equipment so they are able to respond to wildfires.

FY25 - \$60,000

Equipment repair for mowers, ATV's, UTV's dozers, and trailers. **Justification:** Above is a necessary expenditure so we can keep our firefighting equipment/machinery fire ready. Without these funds, our Forest Rangers would not be able to respond to wildfires when their equipment needs repaired. This money will also go towards the upkeep of our lawnmowers and trailers.

LABORATORY SERVICES

FY24 - \$9,400.00 – Software and Core License

Purchase of an OpenLab ChemStation Workstation. Includes software and core license. PC not included for the GC-FID. For testing pesticide formulation and residue samples

MARKET DEVELOPMENT

FY2024 – National Restaurant Association Show – booth rental – cost share basis for 3 Made in Oklahoma companies - \$16,225.00

FY2024 – Oklahoma Grown Farmers Market bags – provided on a cost share basis - \$23,000.00

FY2024 - USLGE – membership dues - \$6,050.00

FY2024 - Edible OKC – Agritourism advertising - \$6,600.00

FY2024 – Oklahoma Wine Trails – shirts - funded entirely by the Viticulture & Enology Revolving Grant fund - \$12,000.00

FY2024 – Quiver coloring sheet app – Flat Aggie/Flat Annie - interactive, 3D, engaging augmented reality learning activity - \$20,000.00

FY2024 – printing – Ag in the Classroom coloring books - \$6,264.58

FY2024 – printing – Ag in the Classroom bilingual SCBG resources – funded entirely by the Specialty Crop Block Grant - \$10,132.20

FY2024 – Rock'n M Meats – Kurt Mayabb - Healthy Food Finance Grant - \$30,500.00

Justification: The Oklahoma Healthy Food Financing Program provides financing for food retailers to provide healthy food in underserved communities that primarily serve low- or moderate-income communities. If the proposed expense is not approved millions of dollars will be lost to the local economy.

FY2024 – (EOC) Mobile Market Hub – Dawn Knight - Healthy Food Finance Grant - \$10,000.00

FY2024 – Rooted Harmony Market LLC – Matt Stahl - Healthy Food Finance Grant - \$10,000.00

FY2024 – The Kid's Cafe – Quin Sanders - Healthy Food Finance Grant - \$10,000.00

FY2024 – 3 F’s Poultry Processing – Shelley Lynch - Healthy Food Finance Grant - \$10,000.00

FY2024 – printing - Flat Aggie & Flat Annie picture book, chapter book & resource guide - \$44,948.17

Justification: Aggie and Annie will come to life through a picture book, chapter book and resource guide and experience life through many interesting adventures, while being surrounded by accurate agriculture. In the education setting, this project will be embedded with writing, reading, math and literature. Students will learn how to write a letter and format an email, all with a focus of agriculture. Students will be able to listen to the story of Flat Aggie and Flat Annie, create their own Flat Aggie or Flat Annie, take pictures of adventures around agriculture, and share those experiences with other students nationwide. This project will ignite curiosity and stimulate creativity, while meeting the academic standards for reading, writing, math and literature in Oklahoma. This project will focus on providing educational materials for teachers of school age students, homeschool students, and groups in Oklahoma and has the potential to reach students across the United States with the support of NASDA,

If this proposed expense is not approved and therefore the project is not completed, the potential for students to continue to have misconceptions of real-life agriculture experiences around Oklahoma would continue.

WILDLIFE SERVICES

\$ 15,000 – ODAFF Wildlife Services is requesting approval for Kenwood Radios. These will be used to increase range and mobility of our communication between air and ground crew in the search/control of Feral Swine. This will decrease our loss of communication over distances that our current radios lack. This will result in more and better radios for communication and prevent aborted missions due to lack of communication.

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

APPROVAL OF CASES

ON THIS 25th day of January 2024, 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 25th day of January 2024.

Blayne Arthur
President
State Board of Agriculture

Exhibit A
Board of Agriculture
January 25, 2024

Cases Resolved by Stipulation

Agricultural Environmental Management Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Faith Lee	OGC-23-401	AEMS	\$200.00
Timothy Rogers	OGC-23-564	AEMS	\$200.00
Eddie & Richard Robinson	OGC-22-762	AEMS	\$5,000.00

Consumer Protection Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
7-Eleven	OGC-23-1020	CPS	\$1,750.00
7-Eleven	OGC-23-961	CPS	\$900.00
Rid-A-Weed	OGC-23-649	CPS	\$2,000.00
Reynolds Aviation	OGC-23-958	CPS	\$1,000.00
Tractor Supply	OGC-23-1329	CPS	\$600.00
TrueGreen LP OKC	OGC-23-960	CPS	\$2,000.00

Consideration and Proposed Action Resolved by: Consent Order

Agricultural Environmental Management Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Cal-Maine Foods, Inc.	OGC-23-645	AEMS	\$1,250.00

Consumer Protection Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Robison Wildlife Solutions, LLC	OGC-23-90	CPS	\$1,500.00
Wheeler Brothers Grain Co.	OGC-23-1353	CPS	\$1,000.00

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. FAITH LEE

Case File No. OGC-23-401

Faith Lee
6229 W. Portals Ave.
Fresno, CA 93723

Summary of Facts: Respondent failed to timely submit their updated Poultry Feeding Operation Annual Reports for 2021 and 2022.

Statute or Rule Violation: 2 O.S. § 10-9.7(J)

Proposed Administrative Penalty: The penalty was assessed at \$200. Respondent stipulated and paid the penalty.

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

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.

FAITH LEE
6229 W. PORTALS AVE
FRESNO, CA 93723

RESPONDENT.

Case No: OGC-23-401


FILED
DEC 27 2023
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Two Hundred Dollars (\$200.00) 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

Faith M Lee
Printed Name and Title:

Date: 12-15-23

FILED
AUG 24 2023
STATE BOARD OF AGRICULTURE

Case No: OGC-23-401

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 Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. January 11, 2024**, 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 involve
 7 complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any
 8 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, § 31 and Okla. Stat. Tit. 2 § 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 owning or operating a Poultry Feeding Operation in Oklahoma.

16. Pursuant to the Oklahoma Poultry Feeding Operations Act, Okla. Stat. Tit. 2 § 10-9 *et seq.*, ODAFF has authority to regulate persons who are poultry feeding operations.

17. The Act at Okla. Stat. Tit. 2 § 10-9.7(J) states: *"Every poultry feeding operation shall file by September 1 of each year an annual report with the Department regarding all poultry waste removed from or land-applied by the facility for the period from July 1 of the previous year through June 30 of that year."*

ALLEGATIONS OF FACT

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

19. On or about March 15, 2023, the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent Letters of Warning regarding their Poultry Feeding Operation Annual Litter Reports.

20. Annual Litter Reports are due each year by September 1.

21. The Warning was accompanied by blank annual reports for Respondent to submit along with the deadline of April 14, 2023.

22. Respondent failed to submit their annual report for 2021 and 2022.

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, Respondent has violated Okla. Stat. Tit. 2 § 10-9.7(J) by failing to submit their Annual Reports.

ATTORNEY CONFERENCES

24. 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.

25. 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.

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

ENFORCEMENT PROCEEDINGS

27. 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.

28. Pursuant to Okla. Stat. Tit. 2 § 10-9.11(A)(1), any person violating the provisions of the Act may be punished by a fine not to exceed Two Hundred Dollars (\$200.00) per day of non-compliance.

PRAYER FOR RELIEF

29. The Department is not seeking to remove any license or registration. We are seeking a monetary penalty as set out in Okla. Stat. Tit. 2 § 10-9.11(A)(1). In this case we are seeking a Two Hundred Dollar (\$200.00) administrative penalty and submission of the missing reports.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

30. The Oklahoma Small Business Regulatory Flexibility Act, Okla. Stat. Tit. 75 § 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 Okla. Stat. Tit. 2 § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, Okla. Stat. Tit. 12 § 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 Dollars (\$200.00).

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 submit your missing reports and 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 24 day of August, 2023.

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

Wendi Morse

Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Wendi Morse, OBA #33571*
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 24 day of Aug, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt

Requested, as follows:

FAITH LEE
6229 W. PORTALS AVE
FRESNO, CA 93723

M. B.
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.

**FAITH LEE
6229 W. PORTALS AVE
FRESNO, CA 93723**

RESPONDENT.

Case No: OGC-23-401

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Two Hundred Dollars (\$200.00) 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. TIMOTHY ROGERS

Case File No. OGC-23-564

**Timothy Rogers
16135 E. Red Fuller Rd.
Tahlequah, CA 74464**

Summary of Facts: Respondent failed to timely submit their updated Poultry Waste Applicators Annual Reports for 2021 and 2022.

Statute or Rule Violation: 2 O.S. § 10-9.18(A)

Proposed Administrative Penalty: The penalty was assessed at \$200. Respondent stipulated and paid the penalty.

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED

NOV 30 2023

STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

TIMOTHY ROGERS
16135 E. RED FULLER RD.
TAHLEQUAH, OK 74464

RESPONDENT.

Case No: OGC-23-564

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Two Hundred Dollars (\$200.00) 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:

Timothy Rogers
Signature

Timothy Rogers
Printed Name and Title:

Date: 11-22-2023

**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.

**TIMOTHY ROGERS
16135 E. RED FULLER RD.
TAHLEQUAH, OK 74464**

RESPONDENT.

Case No: OGC-23-564

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 Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. December 14, 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.**

¹ 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, § 31 and Okla. Stat. Tit. 2 § 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 being a Poultry Waste Applicator in Oklahoma.

16. Pursuant to the Oklahoma Poultry Waste Applicators Certification Act, Okla. Stat. Tit. 2 § 10-9.20, ODAFF has authority to regulate persons who are poultry waste applicators.

17. The Act at Okla. Stat. Tit. 2 § 10-9.18(A) states: *“Every certified poultry waste applicator shall file by September 1 of each year an annual report with the Oklahoma Department of Agriculture, Food, and Forestry regarding all poultry waste land-applied by such applicator for the period from July 1 of the previous year through June 30 of that year.”*

ALLEGATIONS OF FACT

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

19. On or about March 17, 2023, the Agricultural Environmental Management Services (“AEMS”) Division of the Department sent Respondent Letters of Warning regarding their Poultry Waste Applicator (“PWA”) annual reports.

20. Annual Reports are due each year by September 1.

21. The Warning was accompanied by blank annual reports for Respondent to submit along with a deadline of April 14, 2023.

22. Respondent failed to submit their PWA annual reports for 2021 and 2022.

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, Respondent has violated Okla. Stat. Tit. 2 § 10-9.18(A) by failing to submit their Annual Reports.

ATTORNEY CONFERENCES

24. 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.
25. 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.
26. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

27. 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.
28. 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. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

PRAYER FOR RELIEF

29. The Department is not seeking to remove any license or registration. We are seeking a monetary penalty as set out in Okla. Stat. Tit. 2 § 2-18(A). In this case we are seeking a Two Hundred Dollar (\$200.00) administrative penalty and submission of the missing reports.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

30. The Oklahoma Small Business Regulatory Flexibility Act, Okla. Stat. Tit. 75 § 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 Okla. Stat. Tit. 2 § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, Okla. Stat. Tit. 12 § 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 Dollars (\$200.00).

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 submit your missing report and 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 22 day of August, 2023.

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

Wendi Morse

Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Wendi Morse, OBA #33571*
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 _____, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

TIMOTHY ROGERS
16135 E. RED FULLER RD.
TAHLEQUAH, OK 74464

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.

**TIMOTHY ROGERS
16135 E. RED FULLER RD.
TAHLEQUAH, OK 74464**

RESPONDENT.

Case No: OGC-23-564

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Two Hundred Dollars (\$200.00) 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. KEESEE SOW FARM

Case File No. OGC-23-762

**Eddie Robinson and Richard Robinson
Keesee Sow Farm
PO Box 917
Holdenville, OK 74848**

Summary of Facts: Respondent had an unauthorized discharge at their Swine Feeding Operation that traveled through a drainage ditch to an adjoining pasture.

Statute or Rule Violation: 2 O.S. § 20-48(B)(1)

Proposed Administrative Penalty: The penalty was assessed at \$5,000.

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

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.

EDDIE ROBINSON AND RICHARD
ROBINSON, DOING BUSINESS AS,
KEESEE SOW FARM
P.O. BOX 917
HOLDENVILLE, OK 74848

RESPONDENT.

FILED
JAN 08 2024
STATE BOARD OF AGRICULTURE

Case No: OGC-22-762

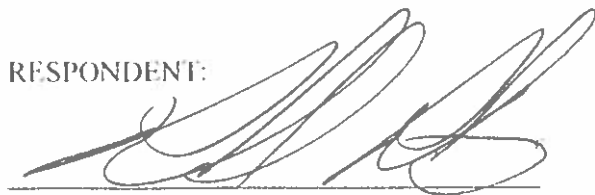
Gina Here
is your copy
live check
is in the safe
thanks. Jon

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Five Thousand Dollars (\$5,000.00) 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

Richard Robinson Treasurer
Printed Name and Title:

Date: 12-12-23

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

FILED
AUG 01 2023
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

**EDDIE ROBINSON AND RICHARD
ROBINSON, DOING BUSINESS AS,
KEESEEE SOW FARM
P.O. BOX 917
HOLDENVILLE, OK 74848**

RESPONDENT.

Case No: OGC-22-762

SECOND 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 Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on December 14, 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.

¹ 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 raising swine in Oklahoma.

16. Pursuant to the Oklahoma Swine Feeding Operations Act, Okla. Stat. tit. 2 § 20-1 *et seq.*, ODAFF has authority to regulate Swine Feeding Operations and Concentrated Swine Feeding Operations.

17. Under the Act, operators are required to utilize Best Management Practices including no discharges unless pursuant to a twenty-five-year, twenty-four-hour storm event.

ALLEGATIONS OF FACT

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

19. On or around November 15, 2022, the Agricultural Environmental Management Services (AEMS) Division of the Department was notified by a complaint of an unauthorized discharge at the Respondent's Keesee Sow Farm.

20. The Complaint with logged at the Department as C-23-006.

21. On or around November 15, 2022, the Department investigated the Complaint and determined on November 7, 2022, a discharge of processed water occurred at the Respondent's Keesee Sow Farm.
22. The processed water flowed across Respondent's farm into the drainage ditch travelling both north and south in and along the drainage ditch and into the adjoining pasture.
23. Respondent was using equipment to attempt remediation. The contaminated soil was being removed and land applied.
24. The Department requested the Respondent complete discharge report. Respondent has completed the report.
25. On or about December 21, 2022, the Department sent Respondent a Letter of Warning regarding the discharge of process wastewater in violation of the law.

ALLEGED CONCLUSIONS OF LAW

26. Based upon the application of the above law to the aforementioned facts, Respondent has violated 2 O.S. § 20-1 *et seq.*, by discharging process wastewater in violation of the Oklahoma Swine Feeding Operations Act.

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.

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 Five Thousand Dollars (\$5,000.00).

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 1ST day of August 2023.

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

Wendi Morse

Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Wendi Morse, OBA # 33571*
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 1 day of Aug., 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**EDDIE ROBINSON AND RICHARD
ROBINSON, DOING BUSINESS AS,
KEESEE SOW FARM
P.O. BOX 917
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.

**EDDIE ROBINSON AND RICHARD
ROBINSON, DOING BUSINESS AS,
KEESEEE SOW FARM
P.O. BOX 917
HOLDENVILLE, OK 74848**

RESPONDENT.

Case No: OGC-22-762

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Five Thousand Dollars (\$5,000.00) 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. 7-ELEVEN

Case File No. OGC-23-1020

7-ELEVEN

9001 S MAY

OKLAHOMA CITY, OK 73159

Summary of Facts: An investigator conducted a routine price verification inspection at Respondent's store. The inspection revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after the first inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was One Thousand Seven Hundred and Fifty Dollars (\$1,750.00). (7 violations at \$250.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None.

OGC Attorney: Kiersten Hamill

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED

NOV 22 2023

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 23-1020

7-ELEVEN)

9001 S MAY)

OKLAHOMA CITY, OK 73159)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Seven Hundred and Fifty Dollars (\$1,750.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it 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 the right to a full administrative 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

Barbara A. Milfelt

Printed Name

7-Eleven, Inc. - Corporate Compliance Manager

Job Title

November 16, 2023

Date

FILED
OCT 26 2023
STATE BOARD OF AGRICULTURE

Case No: OGC 23-1020

1 Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including
 2 the eliminating 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 involve
 7 complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any
 8 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 selling consumer items under the business name of 7-Eleven, located at 9001 S. May, in Oklahoma City, Oklahoma.

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

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A fourth violation discovered within any twelve-month period will be assessed a penalty of Two Hundred Fifty Dollars (\$250.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

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

20. On or about December 10, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at 7-Eleven in Oklahoma City, Oklahoma. The inspection revealed that five (5) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J). A letter of warning was sent.

22. On or about August 11, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at 7-Eleven in Oklahoma City, Oklahoma. The inspection revealed that four (4) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J). A letter of warning was sent.

24. On or about July 18, 2023, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at 7-Eleven in Oklahoma City, Oklahoma. The inspection revealed that six (6) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price.

25. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a third violation of 2 O.S. § 14-38(J). A letter of warning was sent.

26. On or about September 25, 2023, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at 7-Eleven in Oklahoma City,

Oklahoma. The inspection revealed that seven (7) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price.

27. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a fourth violation of 2 O.S. § 14-38(J). A letter of warning was sent.

ALLEGED CONCLUSIONS OF LAW

28. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

29. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5803 or by email at Kiersten.Hamill@ag.ok.gov.

30. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

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

ENFORCEMENT PROCEEDINGS

32. 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.

33. Pursuant to 2 O.S. § 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.

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

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 **One Thousand Seven Hundred and Fifty Dollars (\$1,750.00). (7 violations at \$250.00 per violation).**

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 26 day of October, 2023.

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

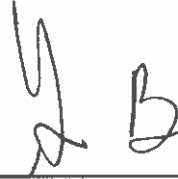
Kiersten Hamill

Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Wendi Morse, OBA # 33571
Brady Robinson, OBA #33600
Kiersten Hamill, OBA #33187
Assistants General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5803
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 26th day of OCT, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**7-Eleven
Attn: Legal Dept.
3200 Hackberry Road
Irving, TX 75063**

A handwritten signature in black ink, appearing to read 'Gina B.', is written above a horizontal line.

Gina Blaylock

RESPONDENT:



OKLAHOMA DEPARTMENT OF AGRICULTURE
FOOD, AND FORESTRY
PRICE VERIFICATION REPORT

CPS 152 Rev 5/19

INSPECTOR NUMBE 23-GMC-0192

DATE* 9/25/2023

COUNTY Cleveland

LOCATION*

CORPORATE

AGN NUMBER AGN0180728

AGN NUMBER

7 Eleven

9001 S Ma av

Oklahoma Ci

OK

73159-

MANAGER

INSPECTION TYP Followup

Original Insp# 23-GMC-018

TELEPHONE* 800 255-0711

Other Store Type

ITEM STATUS

TYPE OF STORE CONVENIENCE STORE

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Blue Bell Ice cream cookies 1pt	071898051015	\$4.99	\$5.29	(\$0.30)
Little Trees Strawberry 2pk	07617220127	\$3.19	\$3.99	(\$0.80)
Cheez it Jalapeno 62g	024100116409	\$2.69	\$2.79	(\$0.10)
Jack Links Jalapeno 8oz	017082000408	\$1.69	\$1.89	(\$0.20)
Combos Stuffed snacks 6.3oz	04149420058	\$3.19	\$3.39	(\$0.20)
Caramello Cadbury 4oz	034000040476	\$3.49	\$3.69	(\$0.20)
Gummi peach rings 7oz	052548730840	\$2.39	\$2.49	(\$0.10)

2023 OCT - 3 12:39

Total Number Checked 100 Total Number Of Violation 7 Accuracy 93 % Inspection Result Notice of Violation

REMARKS

WITNESS

INSPECTOR*

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. 7-ELEVEN

Case File No. OGC-23-961

7-ELEVEN

9001 S MAY

OKLAHOMA CITY, OK 73159

Summary of Facts: An investigator conducted a routine price verification inspection at Respondent's store. The inspection revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after the first inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was Nine Hundred Dollars (\$900.00). (6 violations at \$150.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None.

OGC Attorney: Kiersten Hamill

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED

NOV 22 2023

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 23-961

7-ELEVEN)
9001 S MAY)
OKLAHOMA CITY, OK 73159)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Nine Hundred Dollars (\$900.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it 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 the right to a full administrative 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

Barbara A. Milfelt

Printed Name

7-Eleven, Inc. - Corporate Compliance Manager

Job Title

November 16, 2023

Date

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
OCT 18 2023
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 23-961

7-ELEVEN)
9001 S MAY)
OKLAHOMA CITY, OK 73159)

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 Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on December 14, 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.**

¹ 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 selling consumer items under the business name of 7-Eleven, located at 9001 S. May, in Oklahoma City, Oklahoma.

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

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A third violation discovered within any twelve-month period will be assessed a penalty of One Hundred Fifty Dollars (\$150.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

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

20. On or about December 10, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at 7-Eleven in Oklahoma City, Oklahoma. The inspection revealed that five (5) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J). A letter of warning was sent.

22. On or about August 11, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at 7-Eleven in Oklahoma City, Oklahoma. The inspection revealed that four (4) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J). A letter of warning was sent.

24. On or about July 18, 2023, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at 7-Eleven in Oklahoma City, Oklahoma. The inspection revealed that six (6) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price.

25. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a third violation of 2 O.S. § 14-38(J). A letter of warning was sent.

ALLEGED CONCLUSIONS OF LAW

26. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the

aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

27. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5803.

28. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 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 O.S. § 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.

ENFORCEMENT OF JUDGMENTS

33. 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

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

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

36. 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

37. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Nine Hundred Dollars (\$900.00). (6 violations at \$150.00 per violation).**

38. 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 10th day of October, 2023.

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

Kiersten Hamill

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Wendi Morse, OBA # 33571

Brady Robinson, OBA #33600

Kiersten Hamill, OBA #33187

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298


Telephone: (405) 522-5803

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 18th day of Oct., 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**7-Eleven
Attn: Legal Dept.
3200 Hackberry Road
Irving, TX 75063**



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 23-961

**7-ELEVEN)
9001 S MAY)
OKLAHOMA CITY, OK 73159)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Nine Hundred Dollars (\$900.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it 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 the right to a full administrative 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

Job Title

Date



OKLAHOMA DEPARTMENT OF AGRICULTURE
FOOD, AND FORESTRY
PRICE VERIFICATION REPORT

CPS 152 Rev 5/19

INSPECTOR NUMBER 22-GMC-0188

DATE 7/18/2023

COUNTY Cleveland

LOCATION

CORPORATE

AGN NUMBER AGN0180728

AGN NUMBER

7 Eleven

9001 S May av

Oklahoma City OK 73158

MANAGER

INSPECTION TYPE Followup

Original Insp# 22-GMC-019

TELEPHONE# (800) 255-0711

Other Store Type

ITEM STATUS

TYPE OF STORE CONVENIENCE STORE

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
<u>Kirkland mini's wrapped 7.6oz</u>	<u>034000000020</u>	<u>\$5.99</u>	<u>\$6.29</u>	<u>(\$0.30)</u>
<u>Reeses' stick 3oz</u>	<u>034000002030</u>	<u>\$2.89</u>	<u>\$2.99</u>	<u>(\$0.10)</u>
<u>Heath original 39g</u>	<u>010700060808</u>	<u>\$1.99</u>	<u>\$2.19</u>	<u>(\$0.20)</u>
<u>Combos stuffed snacks 6.30oz</u>	<u>041419420058</u>	<u>\$3.19</u>	<u>\$3.39</u>	<u>(\$0.20)</u>
<u>Jacklinks beef steak 2oz</u>	<u>0170826000035</u>	<u>\$2.49</u>	<u>\$3.79</u>	<u>(\$1.30)</u>
<u>Campbell's tomato 15.4 oz</u>	<u>051000134585</u>	<u>\$2.39</u>	<u>\$3.79</u>	<u>(\$1.40)</u>

REC'D CPS
2023 JUL 21 P 3:10

Total Number Checked 100 Total Number Of Violation 6 Accuracy 94 % Inspection Result Notice of Violation

REMARKS

WITNESS

INSPECTOR*

Gersende Cazaux

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. RID-A-WEED

Case File No. OGC-23-649

**Rid-A-Weed
184206 N. 2590 Rd.
Walters, OK 73572**

Summary of Facts: CPS Inspectors conducted a spill investigation in Lawton, OK. This spill trailed for 23 miles from Lawton to the business location outside of Walters, OK. Inspectors were able to follow the dyed substance along the highway, like following breadcrumbs. Inspectors were able to collect a sample from pooled water on the roadway that contained some of the spilled and dyed substance. This sample contained 2,4-D, Dicamba, and MCPA. When making contact with the operator of the business, he stated he was unaware that the tank had cracked and had been spilling. The Office of General Counsel for the Department made contact with the owner of the business, and he did not feel that he should be held responsible for the tank breaking. It was explained to him that making sure that his equipment is operational and safe is essential in making applications and using these chemicals.

Statute or Rule Violation: 2 O.S. §2-18.1(A); 2 O.S. §3-86(A)(4); O.A.C. 35:30-17-24-(c); 35:30-17-94

Proposed Administrative Penalty: \$2000; stipulated and PIF

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

FILED
NOV 08 2023
STATE BOARD OF AGRICULTURE
C-23-649

Case No: OGC-23-649

Page 9 of 9

**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-23-23-649

**RID A WEED/ULTRA GREEN)
184206 N 2590 RD)
WALTERS, OK 73572)**

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 Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 12th day of October 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.**

¹ 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 Walters, 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 3rd day of March 2023, the Consumer Protective Services Division of the Department conducted a complaint investigation regarding a pesticide spill starting at approximately .4 miles north of 67th street and Timney Road in Lawton, OK.

19. Upon arrival our inspector noticed the spill and was able to follow the dye trail, which ended at your facility in Walters, OK, approximately 23 miles away.

20. During this investigation, our inspector was able to locate standing water at the intersection of 67th street and Highway 36; a sample was collected for analysis.

21. Test results indicated 2,4-D, Dicamba and MCPA were all present.

22. The improper discharge of pesticides causing environmental pollution and using a pesticide inconsistent with labeling are both violations of the Oklahoma Agricultural Laws and Rules.

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, you are in violation of 2 O.S. §2-18.1(A), 2 O.S. §3-86(A)(4), O.A.C. 35:30-17-24(c), and O.A.C. 35:30-17-94 which are stated below.

- 2 O.S. §2-18.1(A): “It shall be unlawful and a violation of the Oklahoma Agricultural Code for any person to cause pollution of any air, land or waters of the state by persons which are subject to the jurisdiction of the Oklahoma Department of Agriculture, Food, and Forestry pursuant to the Oklahoma Environmental Quality Act.”
- 2 O.S. §3-86(A)(4): “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: 4. A person has used a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained from the Board.”

- O.A.C. 35:30-17-24(c): “To protect public health and the environment, failure to follow precautionary and recommended language included in the pesticide product label may be considered a use inconsistent with the label.”
- O.A.C. 35:30-17-94(a)(1)(C): “(a) Procedures for constructive recycling by commercial applicators of unused portions of pesticides and rinsate of pesticides that, upon disposal, are classified as hazardous wastes under EPA regulations shall include the following: (1) Applicators of pesticides may recover and constructively reuse any unused portions of the pesticides and any rinsate by one of the following methods: (C) Disposal in a permitted controlled industrial waste facility.”

PRAYER FOR RELIEF

24. For the previously and above stated infractions of the Oklahoma statute and Agriculture Rules, the Department is seeking an administrative penalty in the amount of TWO THOUSAND Dollars (\$2000.00)

ATTORNEY CONFERENCES

25. 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.

26. 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.

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

ENFORCEMENT PROCEEDINGS

28. 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.

29. 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.

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

31. 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

32. 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

33. 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

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

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

36. 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

37. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of TWO THOUSAND Dollars (\$2000.00).

38. 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 _____ day of _____, 2023.

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

Brady Robison

Teena C. 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 _____ day of _____, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

RID A WEED/ULTRA GREEN
184206 N 2590 RD
WALTERS, OK 73572

Brady Robison
Brady Robison

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. REYNOLDS AVIATION

Case File No. OGC-23-958

**Reynolds Aviation
1860 CR 4536
Winnsboro, TX 75495**

Summary of Facts: ODAFF Inspectors conducted a consumer complaint investigation in Towson, OK. During this inspection/investigation inspectors learned that this company had sprayed an adjacent tree farm to the east of this property. A records request for this company revealed that they were not, at the time of application, licensed in Oklahoma to make commercial applications, but have subsequently obtained the proper licensing to make commercial applications in Oklahoma. At the time of the application this company was operating outside the statutes of Oklahoma. This was in April 2023. In May of 2023 this company came into compliance.

Statute or Rule Violation: 2 O.S. §3-82(A)(1)

Proposed Administrative Penalty: \$1000, stipulated and PIF

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
NOV 16 2023
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

REYNOLDS AVIATION
1860 CR 4536
WINNSBORO, TX 75495

RESPONDENT.


Case No: OGC-23-958

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

Jimmy T. Askill Pilot

Printed Name and Title:

Date: 11-9-2023

**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.

**REYNOLDS AVIATION)
1860 CR 4536)
WINNSBORO, TX 75495)**

RESPONDENT.

Case No: OGC-23-958

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 Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 14th day of December 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.**

¹ 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 Winnsboro, Texas.

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 20th day of April 2023, the Consumer Protection Services Division of the Department conducted a consumer complaint follow-up investigation at a property located in Ft. Towson, OK.

19. Upon conducting this investigation, inspectors learned that on or about the 11th day of April 2023, your company made a commercial aerial pesticide application to a field/tree farm to the east of the complainant's property.

20. Records indicated that you had applied Velpar DF and Oust Extra to the tree farm.

21. Our records indicate that at the time of the application, you were not licensed in Oklahoma to make commercial applications. Our records show that you were issued a license on May 25th, 2023.

22. Making a commercial application without first being licensed is a violation of the Oklahoma Combined Pesticide Law & Rules.

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, you are in violation of 2 O.S. §3-82(A)(1) which states: "A. LICENSE REQUIRED - 1. It shall be unlawful for any person to act, operate, or do business or advertise as a commercial, noncommercial, certified applicator, temporary certified applicator, service technician, or private applicator unless the person has obtained a valid applicator's license issued by the State Board of Agriculture for the category of pesticide application in which the person is engaged."

PRAYER FOR RELIEF

24. The Department is seeking an administrative penalty in the amount of One Thousand Dollars (\$1000.00).

ATTORNEY CONFERENCES

25. 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.

26. 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.

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

ENFORCEMENT PROCEEDINGS

28. 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.

29. 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.

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

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 **One Thousand Dollars (\$1000.00)**.
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 _____ day of _____, 2023.

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 _____ day of _____, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

REYNOLDS AVIATION
1860 CR 4536
WINNSBORO, TX 75495

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.

**REYNOLDS AVIATION
1860 CR 4536
WINNSBORO, TX 75495**

RESPONDENT.

Case No: OGC-23-958

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 DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. TRACTOR SUPPLY CO.

Case File No. OGC-23-1329

**TRACTOR SUPPLY CO.
1504 S.W. 27TH STREET
EL RENO, OK 73036**

Summary of Facts: An investigator conducted a routine price verification inspection at Respondent's store. The inspection revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after the first inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was Six Hundred Dollars (\$600.00) (4 violations at \$150.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None.

OGC Attorney: Kiersten Hamill

**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 23-1329

TRACTOR SUPPLY)
1504 S.W. 27th STREET)
EL RENO, OK 73036)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Six Hundred Dollars (\$600.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it 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 the right to a full administrative 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

Job Title

Date

Lacey Mangum for Tractor Supply

¹ 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 selling consumer items under the business name of Tractor Supply, located at 1504 S.W. 27th in El Reno, Oklahoma.

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

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A third violation discovered within any twelve-month period will be assessed a penalty of One Hundred Fifty Dollars (\$150.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

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

20. On or about July 28, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply in El Reno, Oklahoma. The inspection revealed that eight (8) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J). A letter of warning was sent.

22. On or about February 28, 2023, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply in El Reno, Oklahoma. The inspection revealed that five (5) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J). A letter of warning was sent.

24. On or about October 23, 2023, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply in El Reno, Oklahoma. The inspection revealed that four (4) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

25. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a third violation of 2 O.S. § 14-38(J). A letter of warning was sent.

ALLEGED CONCLUSIONS OF LAW

26. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the

aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

27. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5803 or by email at Kiersten.Hamill@ag.ok.gov.

28. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 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 O.S. § 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.

ENFORCEMENT OF JUDGMENTS

33. 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

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

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

36. 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

37. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Six Hundred Dollars (\$600.00). (4 violations at \$150.00 per violation).**

38. 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 15 day of November, 2023.

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

Kiersten Hamill

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Wendi Morse, OBA # 33571

Brady Robinson, OBA #33600

Kiersten Hamill, OBA #33187

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5803

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this _____ day of _____, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**TRACTOR SUPPLY COMPANY
ATTN: LEGAL DEPARTMENT
5401 VIRGINIA WAY
BRENTWOOD, TN 37027**

Gina Blaylock

Date _____



OKLAHOMA DEPARTMENT OF AGRICULTURE
FOOD, AND FORESTRY
PRICE VERIFICATION REPORT

CPS 152 Rev 5/19

INSPECTOR NUMBE 24-JPS-0007

DATE* 10/23/2023

COUNTY Canadian

LOCATION*

CORPORATE

AGN NUMBER AGN0054490

AGN NUMBER

Tractor Supply

1504 SW 27th Street

El Reno OK 73036-

MANAGER

INSPECTION TYP Followup

Original Insp# 22-JPS-0028

TELEPHONE* (405) 262-2037

Other Store Type

ITEM STATUS

NON-SALE

TYPE OF STORE OTHER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Chuckit Indoor Ball	660048001362	\$11.99	\$12.99	(\$1.00)
Retriever Super 100 Ct Training Pads	749394060541	\$24.99	\$25.99	(\$1.00)
Safeguard Equibits	021784046817	\$18.99	\$19.99	(\$1.00)
BLM LDS Sherpa Lined Sweatshirt	092021605173	\$49.99	\$54.99	(\$5.00)
Cedar Hanging 2in1 Bird Bath Feed	749394107765	\$0.00	\$0.00	\$0.00

NO Price List
11-2-23

Total Number Checked 50 Total Number Of Violation 4 Accuracy 92% Inspection Result Notice of Violation

REMARKS

WITNESS

William Forester

INSPECTOR*

James Schoppa

James Schoppa

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. TRUGREEN

Case File No. OGC-23-960

**TruGreen LP OKC
7016 Camille Ave.
OKC, OK 73149**

Summary of Facts: CPS Inspectors conducted a complaint investigation in OKC at a residence. Inspectors observed dead spots in the lawn of the residence. After reviewing the records from this company, it was determined that they had made applications that were against label requirements. This company had applied Tripower Selective herbicide three times in a year and the label only allows for two applications in a year. This was in violation of statute.

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

Proposed Administrative Penalty: \$2000, stipulated and PIF

Deviations: None

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.

TRUGREEN LP OKC
7016 CAMILLE AVE
OKLAHOMA CITY, OK 73149

RESPONDENT.

FILED
NOV 22 2023
STATE BOARD OF AGRICULTURE

Case No: OGC-23-960

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Two Thousand Dollars (\$2000.00)** 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

Zachery Jordan - Senior Counsel
Printed Name and Title

Date: **11/14/23**

**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-23-960

**TRUGREEN LP OKC)
7016 CAMILLE AVE)
OKLAHOMA CITY, OK 73149)**

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 Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 14th day of December 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.**

¹ 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 25th day of May 2023, the Consumer Protection Services Division of the Department conducted a consumer complaint investigation at 5520 S. Karen St., in Oklahoma City.

19. Upon arrival inspectors noted that the yard contained several dead spots where grass was dead and not growing.

20. According to your records you had applied Tripower Selective Herbicide on January 10, 2023, Tripower Selective Herbicide along with Barricade 4L was applied on February 14, 2023, and Tripower Selective Herbicide was applied again on March 21, 2023.

21. The Tripower Selective Herbicide label states to not apply the product to turf grass more than 2 times a year. Your company made three (3) applications of the product to this lawn by the time of our investigation.

22. According to your records and our investigation, you made applications with Tripower Selective Herbicide against the label requirements and in violation of the Oklahoma Combined Pesticide Law & Rules.

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, you are in violation of 2 O.S. §3-86(A)(4) which 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: 4. A person has used a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained from the Board."

PRAYER FOR RELIEF

24. The Department is seeking an administrative penalty in the amount of Two Thousand Dollars (\$2000.00).

ATTORNEY CONFERENCES

25. 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.

26. 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.

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

ENFORCEMENT PROCEEDINGS

28. 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.

29. 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.

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

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 **Two Thousand Dollars (\$2000.00)**.

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 _____ day of _____, 2023.

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

Brady Robison

Teena C. 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 _____ day of _____, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

TRUGREEN LP OKC
7016 CAMILLE AVE
OKLAHOMA CITY, OK 73149

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. CAL-MAINE FOODS, INC.

Case File No. OGC-23-645

**Cal-Maine Foods, Inc.
Nebo Farms
7859 Highway 1777 S
Sulphur, OK 73086**

Summary of Facts: Respondent had an unauthorized discharge at their CAFO. Respondent did not want to admit liability, so they requested to sign a Settlement Agreement and Consent Order.

Statute or Rule Violation: 2 O.S. § 20-48(B)(1)

Proposed Administrative Penalty: The penalty was assessed at \$1250. Respondent signed a Settlement Agreement and Consent Order and paid the penalty.

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

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

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

COMPLAINANT,)

v.)

Case No: OGC-23-645

**CAL-MAINE FOODS, INC.)
NEBO FARMS)
7859 HIGHWAY 1777 S)
SULPHUR, OK 73086)**

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 Cal-Maine Foods, Inc. (the "Respondent").
2. The facility which is the subject of this Agreement is owned and operated by Cal-Maine Foods, Inc. and is located in Sulphur, OK (the "Facility").

AUTHORITY

3. The Department has authority over this matter pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4.

DEPARTMENT'S NOTICE

4. On August 21, 2023, the Department issued a Notice of Violation in Case No. OGC-23-645, ("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

5. In compromise and full settlement of this matter, respondent shall pay to the Department an administrative penalty of One Thousand Two Hundred Fifty Dollars (\$1,250.00). 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

6. 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 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.
7. 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.
8. 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, 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 matter, through settlement of this Action by this Agreement.

NO ADMISSION

9. 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.

10. 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 administrative, civil, or criminal action or proceeding, or for any purpose other than in an action or proceeding to enforce the terms of this Agreement.

HEARING WAIVER

11. 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

12. Unless otherwise specified, reports, notice, or other submissions required under this Agreement shall be in writing and shall be sent to:

For the Oklahoma Department of Agriculture, Food, and Forestry:

Office of the General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298

MISCELLANEOUS

13. 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.
14. 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.
15. 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.
16. 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.

17. 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.

18. 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.

19. 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



Tecna Gunter, Director
Agricultural Environmental
Management Services
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105

COMPLAINANT

Date: 12-14-23
- and by -

Cal-Maine Foods, Inc.



Michael Ermon, Vice President of Operations
1052 Highland Colony Pkwy, Ste. 200
Ridgeland, MS 39157

Date: 11/29/23

EXHIBIT A

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

FILED
AUG 31 2023
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

**CAL-MAINE FOODS, INC.
NEBO FARMS
MICHAEL ERMON
7859 HIGHWAY 1777 S
SULPHUR, OK 73086**

RESPONDENT.

Case No: OGC-23-645

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 Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on December 14, 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.

¹ 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 concentrated animal feeding in Oklahoma.

16. Pursuant to the Oklahoma Concentrated Animal Feeding Operations Act, Okla. Stat. tit. 2 § 20-41 *et seq.*, ODAFF has authority to regulate Concentrated Animal Feeding Operations.

17. Under the Act, operators are required to utilize Best Management Practices including no discharges unless pursuant to a twenty-five-year, twenty-four-hour storm event.

ALLEGATIONS OF FACT

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

19. On or around March 31, 2023, the Agricultural Environmental Management Services (AEMS) Division of the Department was notified of an unauthorized discharge at the Respondent's Farm.

20. The Complaint with logged at the Department as D-23-025.

21. On or around March 29, 2023, Respondent notified the Department of a discharge that had occurred at their facility.

22. The processed water pooled around the hose then flowed across Respondent's then flowed across the land application area into a drainage area that feeds towards Oil Creek.
23. All effluent was pumped back into the grass and did not leave the premises.
24. On or about March 31, 2023, the Department sent Respondent a Letter of Warning regarding the discharge of process wastewater in violation of the law.

ALLEGED CONCLUSIONS OF LAW

25. Based upon the application of the above law to the aforementioned facts, Respondent has violated 2 O.S. § 20-48(B)(1), by discharging process wastewater in violation of the Oklahoma Concentrated Animal Feeding Operations Act.

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.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

32. 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

33. 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

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

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

36. 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

37. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of One Thousand Two Hundred Fifty Dollars (\$1,250.00).

38. 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 21ST day of August 2023.

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

Wendi Morse

Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Wendi Morse, OBA # 33571*
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 31 day of Aug 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**CAL-MAINE FOODS
NEBO FARMS
ATTN: MICHAEL ERMON
7859 HIGHWAY 1777 S
SULPHUR, OK 73086**



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.

**CAL-MAINE FOODS, INC.
NEBO FARMS
MICHAEL ERMON
7859 HIGHWAY 1777 S.
SULPHUR, OK 73086**

RESPONDENT.

Case No: OGC-23-645

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Thousand Two Hundred Fifty Dollars (\$1,250.00) 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. ROBISON WILDLIFE SOLUTIONS LLC

Case File No. OGC-23-90

ROBISON WILDLIFE SOLUTIONS LLC

9401 S. Harrah Rd.

Newalla, OK 74857

Summary of Facts: ODAFF Inspectors conducted a consumer complaint of a fish kill in July 2021. After inspection and receiving application records inspectors learned that this company applied ProcettaCOR SC to the full .33 acre pond with a 3.0 PDU application rate (prescription dose unit). The label states to not apply in a manner exceeding 2.0 PDU for a single application. This company did not follow the label application rates which resulted in a fish kill. Additionally, their license expired in Dec. 2018. This company did not have a history with ODAFF and wanted to attempt to mitigate any further civil liability. The original penalty went out at \$2000, and because they were able to remedy the license issue and had not had a previous history, a consent order was entered in to and the penalty reduced to \$1500.

Statute or Rule Violation: 2 O.S. §3-86(A)(4), 2 O.S. §3-86(A)(15)

Proposed Administrative Penalty: \$1500; consent order entered and PIF

Deviations: Consent Order entered

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-23-90

**JARRYD ROBISON)
ROBISON WILDLIFE SOLUTIONS LLC)
9401 S. HARRAH RD)
NEWALLA, OK 74857)**

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 Robison Wildlife Solutions, LLC (the "Respondent").
2. The facility which is the subject of this Agreement is owned and operated by Jarryd Robison and located at 9401 S. Harrah Rd., Newalla, OK (the "Facility").

AUTHORITY

3. The Department has authority over this matter pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7).

DEPARTMENT'S NOTICE

4. On August 10th, 2023, the Department issued a Third Amended Notice of Violation in Case No. OGC-23-90, ("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

5. In compromise and full settlement of this matter, respondent shall pay to the Department an administrative penalty of **One Thousand Five Hundred Dollars (\$1500.00) and renew their business license.** 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

6. 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 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.
7. 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.
8. 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 Notice. The Department and Respondent are avoiding further contention, including litigation of this matter, through settlement of this Action by this Agreement.

NO ADMISSION.

9. 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.

10. 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

11. 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

12. Unless otherwise specified, reports, notice, or other submissions required under this Agreement shall be in writing and shall be sent to:

For the Oklahoma Department of Agriculture, Food, and Forestry:

Brady Robison
Assistant General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298

For: Robison Wildlife Solutions, LLC

Doug Carel
Attorney for Respondent
2200 Shadowlake Drive
Oklahoma City, OK 73159
405-692-8918

MISCELLANEOUS

13. 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.
14. 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.
15. 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.
16. 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.
17. 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

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-23-90

**JARRYD ROBISON)
ROBISON WILDLIFE SOLUTIONS LLC)
9401 S HARRAH RD)
NEWALLA, OK 74857)**

RESPONDENT.

3rd 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 Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on 12th day of October 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.**

¹ 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 Newalla, 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 27th day of July 2021, the Consumer Protective Services Division of the Department conducted a consumer complaint investigation located at 2720 Hardin Drive, Choctaw, OK where a reported fish kill occurred around the 21st day of July 2021.

19. Upon request, your company provided application records, stating on July 19, 2021, a water treatment using ProcellaCOR SC (EPA Reg. No. 67690-79) was applied by Jarryd Robison to the full 0.33 surface acre pond, with a 3.0 Prescription Dose Units (PDU) application rate.

20. The ProcellaCOR SC label states for aquatic foliar applications, do not exceed 2.0 PDU per acre for a single application. For in-water application to control floating aquatic weeds, 1-2 PDU per acre-foot of water is needed when treating more than 30% of the waterbody.

21. The environmental hazards section of the ProcellaCOR SC label states that water bodies containing very high plant density should be treated in sections to prevent the potential suffocation of fish.

22. According to our investigation, you did not follow the precautionary guidelines, which resulted in a pond fish kill due to oxygen depletion.

23. Additionally, your business license expired on December 31, 2018.

ALLEGED CONCLUSIONS OF LAW

24. Based upon the application of the above law to the aforementioned facts, you are in violation of you are in violation of 2 O.S. §3-86(A)(4) and 2 O.S. §3-86(A)(15) which state:

- 2 O.S. §3-86(A)(4): “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: 4. A person has used a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained from the Board.”

- **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.”

ATTORNEY CONFERENCES

25. 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.
26. 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.
27. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

28. 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.
29. 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.

30. 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.

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 **Two Thousand Dollars (\$2000.00)**.

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 10TH day of August, 2023.

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
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 10th day of August 2023, a true and correct copy of the forgoing instrument was mailed, via email to dougcarrellaw@gmail.com:

JARRYD ROBISON
ROBISON WILDLIFE SOLUTIONS LLC
9401 S HARRAH RD
NEWALLA, OK 74857

Brady Robison
Brady Robison

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

v.

Case No: OGC-23-90

**JARRYD ROBISON
ROBISON WILDLIFE SOLUTIONS LLC
9401 S HARRAH RD
NEWALLA, OK 74857**

RESPONDENT.

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Two Thousand Dollars (\$2000.00)** 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. WHEELER BROTHERS GRAIN COMPANY

Case File No. OGC-23-1353

**WHEELER BROTHERS GRAIN COMPANY
760 W. ROBERTS AVE.
KINGFISHER, OK 73750**

Summary of Facts: ODAFF Inspectors conducted a consumer complaint inspection on a residence in Piedmont, OK. This property is adjacent to the north of a field that this company had treated. This residence had ornamental and fruit trees, a garden with growing vegetables whose intended destination was market. The Mesonet station in Yukon indicated a north wind from 4-6 mph at the time of the pesticide application. Records supplied by this company indicated that Glystar Plus and Grazon PD3 were applied. The label states to apply only when the wind is blowing away from sensitive areas. A consent order was entered into, and the penalty reduced. The penalty went out at \$1500 and consented to at \$1000. This company reached out to the injured party and reached a monetary settlement with them. The consent order was the company wishing to not make an admission of guilty for possible future litigation. The consent was paid in full.

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

Proposed Administrative Penalty: \$1000, consented and PIF.

Deviations: Consent Order, reduced to \$1000

Other Actions Required: None.

OGC Attorney: Brady Robison

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

FILED
NOV 19 2023
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

**WHEELER BROTHERS GRAIN COMPANY
760 W. ROBERTS AVE.
KINGFISHER, OK 73750**

RESPONDENT.

Case No: OGC-23-1353

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 Wheeler Brothers Grain company 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 the 30th day of November 2023, the Department issued a Notice of Violation in Case No's. OGC-23-1353 (the Notice) to the Respondent, which are attached hereto as Exhibit A. The Allegations of Fact and Summary of Applicable Law contained in the Notice are incorporated herein by reference but are specifically and generally denied by Respondent.

ORDER AND AGREEMENT

4. In compromise and full settlement of this matter, Respondent shall pay to the Department an administrative penalty of One Thousand Dollars (\$1000.00). 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:

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: 15th day of December 2023

- and by -

Todd Lafferty

Todd Lafferty
WHEELER BROTHERS GRAIN COMPANY
760 W. ROBERTS AVE.
KINGFISHER, OK 73750

Date: 12/15/2023

**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.

**WHEELER BROTHERS GRAIN COMPANY
760 W. ROBERTS AVE.
KNGFISHER, OK 73750**

RESPONDENT.

Case No: OGC-23-1353

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 Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 8th day of February 2024** 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.**

¹ 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 Kingfisher, 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 25th day of July 2023, the Consumer Protective Services Division of the Department conducted a consumer complaint investigation.

19. This complaint was conducted Piedmont, OK. The nature of this complaint was a drift complaint/off-target drift. This complaint was located at 782 Badger St. NE.

20. This property is adjacent to a fallow field your company sprayed in the NW ¼ of section 34-14N05N.

21. There were ornamental and fruit trees as well as a garden growing in the lawn of this residence. Our inspector observed the trees and garden plants having curling and necrotic leaves.

22. Our inspector took samples of the vegetation for testing.

23. Your records indicated that you applied Glystar Plus and Grazon PD3 to the field on July 21, 2023, during a 12-mph northeast wind.

24. The Yukon, OK Mesonet Weather Station recorded the winds being 4-6 mph from the north at the time of your application.

25. The Glystar and Grazon labels both state to only apply the product when the wind is blowing away from sensitive areas such as residential areas, bodies of water, know habitats for threatened and endangered species, non-target crops, etc. The Grazon label states to not apply the product when sensitive areas are within 250 feet down wind, and to leave an unsprayed swath at the downwind edge of the treated field.

26. According to our investigation your application was made against the labeled directions, because sensitive areas were within 250 feet down wind of your application area, and you did not leave an unsprayed buffer zone.

ALLEGED CONCLUSIONS OF LAW

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

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.

PRAYER FOR RELIEF

34. The Department is not seeking to remove any license or registration of any business; we are seeking a monetary penalty as set out in statutes, specifically 2 O.S. §2-18(A). In this case we are seeking a **One Thousand Five Hundred Dollar (\$1500.00)** administrative penalty.

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 Five Hundred Dollars (\$1500.00)**.

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 _____ day of _____, 2023.

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
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 _____ day of _____, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

WHEELER BROTHERS GRAIN COMPANY
760 W. ROBERTS AVE.
KNGFISHER, OK 73750

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.

**WHEELER BROTHERS GRAIN COMPANY)
760 W. ROBERTS AVE.)
KNGFISHER, OK 73750)**

RESPONDENT.

Case No: OGC-23-1353

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

Printed Name and Title:

Date: _____

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" (~~2023~~ 2024 Edition).
- (2) Handbook 130 "Uniform Laws and Regulations" (~~2023~~ 2024 Edition), excluding Section G "Uniform Engine Fuels and Automotive Lubricants Regulation."
- (3) Handbook 133 "Checking the Net Contents of Packaged Goods" (2023 Edition).
- (4) Handbook 105-1 "Specifications and Tolerances for Field Standard Weights" (2019 Edition).
- (5) Handbook 105-2 "Specifications and Tolerances for Field Standard Measuring Flasks" (2021 Edition).
- (6) Handbook 105-3 "Specifications and Tolerances for Graduated Neck Type Volumetric Field Standards" (2010 Edition).
- (7) Publication 14 (~~2024~~ 2024 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 6, 2023.

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

CHAPTER 15. ANIMAL INDUSTRY

SUBCHAPTER 3. ANIMAL HEALTH REPORTABLE DISEASES

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

The State Veterinarian shall develop and maintain a list of reportable diseases which may be accessed ~~at the internet address: www.ag.ok.gov/ais~~ on the Oklahoma Department of Agriculture, Food, and Forestry webpage.

SUBCHAPTER 5. BIOLOGICAL PRODUCTS AND LABORATORIES

35:15-5-1. Biological products

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

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

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

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

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

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

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

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

- (2) Trade secrets and formulations submitted with the registration shall be kept confidential.
- (3) Autogenous biologics shall be registered individually by the specific microorganisms (seed) which make up the composition of the vaccine.
- (f) If it appears to the Department that the composition of the biological product is adequate to warrant the proposed claims and if the biological product, its labeling, and other material required to be submitted comply with the requirements of this section, then the biological product shall be registered.
- (g) Additional registration of a biological product shall not be required in the case of a biological product shipped from one location within Oklahoma to another location within Oklahoma if the location is operated by the same person.
- (h) All biological product registrations shall expire on March 20 of each year but may be renewed by the Department. Any person who fails to renew a biological product by March 20 of each year shall pay a penalty of an additional Two Hundred Dollars (\$200.00).
- ~~(i) Any biological product that contains any living organism and is produced pursuant to subsection (b) may be used with prior written notice to the Department. Notice shall be provided for each day the person intends to utilize the biological product and shall contain the name of the person prescribing the biological product, the specific location where the biological product will be used, and the reason for using the biological product.~~
- ~~(j)-(i)~~ (i) No person shall sell or offer for sale an unregistered biological product or an expired biological product.
- ~~(k))j)~~ (j) The term "biological product" shall mean all viruses, serums, toxins (excluding substances that are selectively toxic to microorganisms, including antibiotics), or analogous products at any stage of production, shipment, distribution, or sale, which are intended for use in the treatment of livestock or any other species of animals and which act primarily through the direct stimulation, supplementation, enhancement, or modulation of the immune system or immune response. The term biological products includes but is not limited to vaccines, bacterins, allergens, antibodies, antitoxins, toxoids, immunostimulants, certain cytokines, antigenic or immunizing components of live organisms, and diagnostic components that are of natural or synthetic origin, or that are derived from synthesizing or altering various substances or components of substances such as microorganisms, genes or genetic sequences, carbohydrates, proteins, antigens, allergens, or antibodies. The term shall not include any product identified and regulated as a pesticide by the Department.
- (1) A product's intended use shall be determined through an objective standard dependent upon factors such as representations, oral or written claims, packaging, labeling, or appearance.
- (2) The term "analogous products" shall include the following:
- (A) Substances, at any stage of production, shipment, distribution, or sale, which are intended for use in the treatment of livestock or any other species of animals and which are similar in function to biological products in that they act, or are intended to act, through the stimulation, supplementation, enhancement, or modulation of the immune system or immune response;
 - (B) Substances, at any stage of production, shipment, distribution, or sale, which are intended for use in the treatment of livestock or any other species of animals through the detection or measurement of antigens, antibodies, nucleic acids, or immunity; or

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

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

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

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

SUBCHAPTER 9. LIVESTOCK SPECIAL SALES

PART 3. LIVESTOCK SPECIAL SALES

35:15-9-9. Submission of record sales

The permit holder shall submit to the ~~Board~~ Department within fifteen (15) days after the special sale a record identifying each animal consigned. 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.

SUBCHAPTER 11. IMPORTATION AND EXPORTATION OF ANIMALS

PART 1. GENERAL

35:15-11-1. General importation and exportation requirements

(a) All persons importing livestock, as defined in 2 O.S. § 6-150, shall have a certificate of veterinary inspection with the following exceptions:

(1) Livestock transported as part of a commuter herd with a copy of the commuter herd agreement;

(2) Livestock transported directly to an Oklahoma veterinarian for treatment if returned to the premises of origin within two (2) days following cessation of treatment;

(3) Livestock transported from a premises of origin in another state to an approved tagging site or approved livestock market and they are accompanied by an owner-shipper statement;

(4) Livestock transported from a premises of origin in another state directly to a slaughtering establishment and they are accompanied by an owner-shipper statement or a completed Drive-In document; or

(5) Livestock transported as a restricted movement accompanied by a VS form 1-27.

(6) Livestock being exported from Oklahoma shall meet the requirements of the state of destination. The buyer, seller, and transporter shall be equally responsible for ensuring that all requirements are met.

- (b) The Commissioner of Agriculture or the State Veterinarian may impose pre-entry test requirements on any species if it becomes known that the threat of disease exists which could place the livestock industries of Oklahoma at risk or could become a public health hazard.
- (c) Import requirements of this section may be in addition to import requirements for a species or disease found in this subchapter.
- (d) The owner of the livestock, the shipper, and the operator of the vehicle transporting the livestock shall be equally and individually responsible for meeting all requirements regarding certificates of veterinary inspection (health certificate), permits, and the movement of livestock into this state.

PART 13. EQUINE PIROPLASMOSIS [REVOKED]

35:15-11-51. Purpose [Revoked]

~~Equine Piroplasmosis is a parasitic infection of horses, donkeys, mules, and zebras. It can be spread either naturally by ticks or through contaminated needles, syringes, dental equipment, and surgical equipment. These rules allow the State Veterinarian to issue interstate stop movement orders or quarantines of Equine Piroplasmosis reactors. In managing any premises that houses negative, positive, or reactor equids, exposing a negative equid to the blood or blood products of a positive or reactor equid shall be avoided. Proper handling of infected needles, surgical instruments, dental equipment, blood or blood products collected from positive or reactive equids, or other blood contaminated fomites, including blood contaminated semen collected for artificial insemination is essential, as Equine Piroplasmosis may also be transmitted through these routes.~~

35:15-11-52. Definitions [Revoked]

~~The following words and phrases shall have the following meanings:~~

~~"Equine Piroplasmosis reactor" means any Equidae that tests positive for Equine Piroplasmosis from either B. caballi or T. equi but has not been confirmed by NVSL.~~

~~"Exposed" means all Equidae in the same herd as a Piroplasmosis positive animal or had recent direct and sustained contact with a Piroplasmosis animal.~~

~~"High risk premises" means premises where transmission of Equine Piroplasmosis is known or suspected to have occurred or has the potential to occur, through either natural tick borne transmission or high risk management practices and as determined by the State Veterinarian.~~

~~"Low risk premises" means premises where transmission of Equine Piroplasmosis has not been demonstrated or suspected to have occurred and has a low potential to occur, through either natural tick borne transmission or management practices and as determine by the State Veterinarian risk.~~

~~"Negative Equidae" means Equidae that show a negative result to a competitive enzyme linked immunosorbent assay (e-ELISA) test for Equine Piroplasmosis or have been classified negative by the designated epidemiologist, based on history, supplemental tests, or other epidemiological evidence.~~

~~"Positive Equidae" means Equidae that show a positive result to for Equine Piroplasmosis by the National Veterinary Services Laboratories (NVSL) on the complement fixation (CF) test or competitive enzyme linked immunosorbent assay (e-ELISA) test.~~

———"Racetrack facility" means a premises used to conduct live horse racing events and is not limited to facilities licensed by the Oklahoma Horse Racing Commission.

———"Suspect case" means an Equidae with clinical signs consistent with Equine Piroplasmosis, a history of exposure, or an inconclusive test.

35:15-11-53. Testing for Equine Piroplasmosis [Revoked]

(a) All racing Quarter horses, Paint horses, and Appaloosas entering a racetrack facility shall have proof of a negative Piroplasmosis test (T. equi) within the past twelve (12) months.

(b) All official samples collected from Equidae for Piroplasmosis testing shall be collected by a state or federal veterinarian, an accredited veterinarian, or an authorized agent of the Board.

(1) The State Veterinarian, a state or federal veterinarian, an authorized agent of the Board, or an accredited veterinarian acting under authority of the State Veterinarian may cause an official test to be conducted on any Equidae known or suspected to be infected with or exposed to Piroplasmosis.

(2) If the owner refuses or neglects to comply with the testing requirements, the Equidae shall be quarantined and the movement of any Equidae from the premises shall be prohibited.

(3) The State Veterinarian may provide and require supervision for collection of test samples submitted by an accredited veterinarian.

(4) Any person providing erroneous or fictitious information shall be in violation of these rules.

(5) Any person altering, defacing, or falsifying information on a test chart, permit, certificate of veterinary inspection, or any form associated with the Piroplasmosis program shall be in violation of these rules.

(c) All Equidae epidemiologically determined to have been exposed to a Piroplasmosis positive animal shall be quarantined and tested by a state or federal veterinarian, an accredited veterinarian, or an authorized agent of the Board.

(1) Test results for suspect cases and reactor Equidae shall be confirmed by NVSL.

(2) Positive results shall be confirmed by NVSL.

(3) Exposed Equidae that test negative shall be retested at least thirty (30) calendar days from last exposure to a Positive Equidae.

(4) Epidemiologic data may be considered in the testing requirements for Exposed Equidae and affected herds.

(d) Release of quarantine.

(1) No Equidae held under quarantine shall be moved or released until a written permit or quarantine release signed by an authorized agent has been executed.

(2) Exposed Equidae may be released from quarantine after obtaining a negative test a minimum of thirty (30) calendar days from the last exposure.

(3) Epidemiologic data may be considered in the release of the quarantine.

(e) Foals born to positive mares are considered exposed and shall be tested because Equine Piroplasmosis hemoparasites may be transmitted in utero or at parturition.

(1) Foals under six (6) months of age may carry maternal antibodies to infection but may not be infected. Therefore, seropositive foals without other evidence of infection via PCR or blood smears shall be retested after waning of maternal antibodies.

(2) Foals shall be kept in quarantine until weaned or separated from the mare and until tested negative for Equine Piroplasmosis (at a minimum of six (6) months of age) at NVSL.

35:15-11-54. Management and disposition of Positive Equidae [Revoked]

(a) Any Equidae confirmed positive for Equine Piroplasmosis shall be officially identified by the Department or regulatory personnel acting under the authority of the State Veterinarian, unless already electronically identified.

(b) Options for managing Positive Equidae include quarantine, quarantine with treatment, export, and euthanasia. Conditions for quarantine shall be outlined in a compliance agreement established between the owner and the State Veterinarian. Standards for quarantine shall differ for high risk and low risk premises.

(c) Management of Positive Equidae shall be conducted under the direct supervision of the State Veterinarian.

(1) Quarantine on high risk premises:

(A) Positive Equidae shall be housed in a tick free facility on any premises approved by the State Veterinarian.

(B) If no tick free facility is available, the Positive Equidae shall be housed at a predetermined safe distance from other Equidae. The State Veterinarian shall determine the predetermined distance with the goal of reducing the risk of tick borne transmission and shall take into account tick species in the area, natural geographical barriers, seasonal variation, the potential role of wildlife in tick movement, and other factors.

(C) A tick free facility may be of any size but shall be surrounded by two (2) fences a minimum of thirty (30) feet apart, with the zone between the fences free of vegetation and animals.

(D) Prior to moving Positive Equidae into a facility, the Equidae, the facility, and the thirty (30) foot barrier zone shall be treated to eliminate ticks using an approved acaricide.

(i) Positive Equidae shall be maintained on a fourteen (14) to eighteen (18) day acaricide treatment interval to minimize tick infestations.

(ii) Acaricides used shall be labeled as effective against and approved for use on Equidae or on the environment (i.e., pasture, stall, soil, etc.).

(E) Unless approved by the State Veterinarian, only positive Equidae are allowed in the tick free facility. Dogs, other domestic animals, or livestock shall not be allowed to enter the facility unless maintained on acaricide treatment and remain tick free at all times.

(F) Facility inspections shall be conducted pursuant to the following schedule:

(i) The State Veterinarian shall make at least two (2) unannounced inspections of the facility within the first sixty (60) calendar days of quarantine to ensure no unauthorized animals are moving to or from the facility, the thirty (30) foot zone is free of vegetation and animals, and the Positive Equidae are not tick infested.

(ii) During the first year of quarantine, premises shall be inspected at least quarterly, or more frequently as determined by the State Veterinarian, to assess compliance. At least one of these inspections shall be unannounced.

- (iii) After the first year of quarantine, there shall be a minimum of two (2) intensive premises inspections per year for premises that repeatedly demonstrate complete compliance. These inspections may be scheduled or unannounced at the discretion of the State Veterinarian.
 - (iv) Frequency of inspections shall be increased in cases where the State Veterinarian has identified the potential for noncompliance.
 - (G) Working, exercising, or allowing other contact between Positive and Negative Equidae shall not be allowed except in the following circumstances:
 - (i) Any contact with other animals shall only occur on the quarantined premises.
 - (ii) Both Positive and Negative Equidae shall be treated with an approved acaricide not less than twenty four (24) hours and not more than fourteen (14) days prior to any contact.
 - (iii) Equidae shall not be left unattended in pastures. When acaricide treated Positive Equidae are not being ridden, they shall be placed in a trailer or kept a minimum of ten (10) feet from acaricide treated Negative Equidae.
 - (iv) Trailers used to transport Positive Equidae within the quarantined premises shall be treated with acaricide after each use.
 - (v) Premises where Positive and Negative Equidae have any contact shall be subject to more frequent inspections by the State Veterinarian.
- (2) Quarantine on low risk premises:
 - (A) Positive Equidae shall be housed in separate pens or pastures away from Negative Equidae.
 - (i) There shall be a minimum ten (10) foot separation maintained between Positive Equidae and Negative Equidae on the same or adjacent low risk premises, with vegetation kept no higher than four (4) inches tall in the intervening space.
 - (ii) If the ten (10) foot separation is not possible due to facility size or other limiting factors, the State Veterinarian shall evaluate the facilities on a case-by-case basis to determine if sufficient space and barriers are available to establish and maintain the necessary isolation of Positive Equidae.
 - (B) Inspections shall occur on the same schedule as for Positive Equidae quarantined on high risk premises.
- (3) Quarantine and enrollment in an approved Equine Piroplasmosis treatment research program shall be available upon the approval of the State Veterinarian.
 - (A) Any associated costs for an approved Equine Piroplasmosis treatment research program shall be the owner's responsibility.
 - (B) Management of Positive Equidae enrolled in an approved Equine Piroplasmosis treatment program shall be in accordance with the standards specified in this section.
 - (C) If an Equidae completes an approved treatment research program, effectively demonstrates freedom from the organism, and no longer meets the confirmed positive case definition for Equine Piroplasmosis, the Equidae may be eligible for quarantine release at the discretion of the State Veterinarian.

(4) It shall be the owner's responsibility to coordinate with authorities in the destination country for the export of an Equine Piroplasmosis Positive Equidae and to arrange for transportation. The Positive Equidae shall be transported to the export facility under an APHIS movement permit and official seal.

(5) Euthanasia and disposal:

(A) Both euthanasia and disposal shall be documented and conducted pursuant to the supervision of the State Veterinarian.

(B) Federal and State indemnity shall not be available.

35:15-11-55. Release and removal options for Exposed Equidae [Revoked]

(a) On high risk premises where Positive Equidae remain, equids Exposed Equidae may be released from quarantine and removed from the premises under the following conditions:

(1) NVSL tests the Exposed Equidae and determines they are negative.

(2) The Negative Equidae are treated for ticks using an approved acaricide.

(3) Exposed Equidae are confined to a negative equine facility (e.g., pen, paddock, stall):

(A) The negative facility shall contain no vegetation and shall have been treated with an approved acaricide;

(B) The facility is surrounded by two fences a minimum of thirty (30) feet apart with a zone free of vegetation between the fences or barriers;

(C) The thirty (30) foot zone around the facility is kept free of vegetation and treated with an acaricide approved for treating facilities to eliminate ticks.

Treatments shall be repeated as often as necessary according to label instructions to maintain a zone with no ticks. If thirty (30) feet of separation is not possible, the State Veterinarian shall evaluate the facilities on a case by case basis to determine whether sufficient space and barriers are available for isolating the Negative Equidae; and

(D) No equipment, tack, hay, feed, bedding, manure, clothing, or other items have been brought into the negative facility from any Positive Equidae premises.

(4) After the animals are confined, they are retreated with an acaricide at fourteen (14) to eighteen (18) day intervals.

(5) The Negative Equidae are inspected for ticks ("scratched") and retested by the NVSL not less than thirty (30) days following entry into the negative equine facility. Exposed Equidae that are negative on the retest and free of ticks may be released from the quarantine if treated with an approved acaricide and removed from the premises while still wet with the acaricide.

(6) Dogs, other domestic animals, or livestock that have access to a negative equine facility shall be treated to prevent tick transmission to the facility.

(b) After all Positive Equidae have been removed from high risk premises, the remaining Equidae may be released from quarantine through the following process based on the presence of vegetation on the premises:

(1) Premises with no vegetation:

(A) After all Positive Equidae leave the premises, the Negative Equidae shall be treated for ticks using an approved acaricide.

(B) Treat the premises with an approved acaricide.

(C) Retest the negative Exposed Equidae at NVSL no less than thirty (30) days after removing the Positive Equidae.

~~(D) If the Equidae are negative on the retest, the quarantine may be released by the State Veterinarian.~~

~~(2) Premises with vegetation:~~

~~(A) After all Positive Equidae leave the premises, the Negative Equidae shall be treated for ticks using an approved acaricide.~~

~~(B) The vegetation shall be mowed to less than four (4) inches, residual grass clippings shall be removed, and the premises shall be treated with a registered acaricide effective against ticks and approved for grazing pastures. While spraying pastures, animals shall be kept in stalls, sheds, trailers, or other areas until the forage is safe for ingestion, per acaricide label directions.~~

~~(C) The Negative Exposed Equidae shall be retested by NVSL no less than thirty (30) days after removing Positive Equidae.~~

~~(D) If the Equidae are negative on the retest, the quarantine may be released by the State Veterinarian.~~

~~(E) If premises are too large to treat all vegetation, the Equidae may be kept on the premises under quarantine until they test negative at least twelve (12) months after removing the Positive Equidae. During that twelve (12) month period, the Equidae may attend functions off premises if they test negative within thirty (30) days prior to the function and are treated with an approved acaricide within seventy two (72) hours of movement. The Equidae shall be returned to the premises within ten (10) days of their departure.~~

~~(F) Dates of treatment shall be recorded on a treatment record maintained by the owner.~~

~~(G) The State Veterinarian shall review records regularly for the duration of the quarantine period.~~

~~(c) Exposed Equidae on low risk premises may be released from quarantine order under the following conditions:~~

~~(1) NVSL tests the Exposed Equidae and finds them negative for Equine Piroplasmosis.~~

~~(2) Negative Equidae on the premises or adjacent premises are separated from Positive Equidae by a minimum of ten (10) feet, with vegetation kept below four (4) inches tall in the intervening space.~~

~~(3) If ten (10) feet of separation is not possible due to facility size or other limiting factors, the State Veterinarian shall evaluate the facilities on a case by case basis to determine whether sufficient space is available to isolate Positive Equidae.~~

~~(4) At the time they are tested, all Equidae shall undergo an initial treatment for ticks with an approved acaricide.~~

~~(5) Negative Equidae shall be retreated fourteen (14) to eighteen (18) days following initial treatment, according to product label instructions, and kept free of ticks until retested.~~

~~(6) Negative Equidae shall be inspected for ticks (scratched) and retested negative by NVSL not less than thirty (30) days following the initial treatment and separation from Positive Equidae.~~

~~(7) If Exposed Equidae are removed from the premises within thirty (30) days of a verified negative status (i.e., the releasing test) and within fourteen (14) days of a treatment, no additional testing or treatment shall be required.~~

~~(8) If the State Veterinarian identifies possible pasture contamination after removal of a Positive Equidae, the following steps shall be taken for twelve (12) months after removal:~~

~~(A) Apply an acaricide treatment each time the Negative Equidae is moved from the premises;~~

~~(B) Within thirty (30) days prior to movement, retest the Negative Exposed Equidae, and confirm their negative status; and~~

~~(C) Conduct a final negative test at the end of the twelve (12) month period for all remaining Negative Exposed Equidae.~~

~~(9) If a Negative Exposed Equidae on a low risk premises subsequently tests positive for Equine Piroplasmosis, the classification of the premises shall be reevaluated by the State Veterinarian. Epidemiological evidence of disease transmission shall elevate the classification of the premises to high risk.~~

~~35:15-11-56. Long term maintenance of Negative Exposed Equidae [Revoked]~~

~~(a) On premises where Negative and Positive Equidae remain long term, management practices shall minimize the risk of Equine Piroplasmosis transmission.~~

~~(b) Long term maintenance of Negative Exposed Equidae on high risk premises that have Positive Equidae shall meet the following:~~

~~(1) The owner shall complete all requirements found in these rules, except instead of confining the Negative Equidae to a prescribed facility, the Positive Equidae shall be confined to an enclosure with the same restrictions and requirements.~~

~~(2) The Negative Equidae shall be retested for Equine Piroplasmosis annually and within thirty (30) days prior to any movement from the premises or change of ownership.~~

~~(3) Immediately prior to moving any Negative Equidae, the State Veterinarian shall inspect (scratch) the Negative Equidae for ticks and require treatment of the Equidae with an approved acaricide. The animals shall not be moved unless the inspection reveals no ticks and the animals move off the premises while still wet with acaricide.~~

~~(c) Long term maintenance of Negative Exposed Equidae on low risk premises that have Positive Equidae shall comply with the following:~~

~~(1) Negative and Positive Equidae shall be kept separated.~~

~~(2) Negative Equidae shall be retested and found negative within thirty (30) days prior to movement off the premises.~~

~~(3) The owner shall treat Negative Equidae with an approved acaricide not less than twenty four (24) hours and not more than fourteen (14) days prior to moving them from the premises.~~

~~(4) Dates of acaricide treatment shall be recorded on a treatment record maintained by the owner.~~

~~(5) Negative Exposed Equidae shall receive annual retests as long as Positive Equidae remain on the premises.~~

~~(6) If a Negative Exposed Equidae on a low risk premises subsequently tests positive for Equine Piroplasmosis, the classification of the premises shall be reevaluated by the State Veterinarian. Epidemiological evidence of disease transmission shall elevate the classification of the premises to high risk.~~

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 age, color, and sex.
- (c) The seller's invoice shall include the seller's name and address and a description of the livestock as to age, color, and sex.
- (d) The livestock auction market veterinarian or sale company shall not be responsible for results of any tests that are conducted properly or for any reactor animals or responder animals found in the market.
- (e) Refusal or failure to comply with Department rules shall be just cause for the revocation or suspension of the livestock auction market license.
- (f) No person owning, operating, conducting, or maintaining a livestock auction market shall allow any of the following animals to leave the livestock auction market unless it is individually identified by an official identification with an exception for weak cattle or cattle that pose a greater than normal risk of being injured or injuring a person:
 - (1) All beef cattle eighteen (18) months of age or older, except terminal fed steers and heifers, going directly to a feedlot or slaughter which will not be reintroduced into the breeding herd;
 - (2) All dairy cattle;
 - (3) All "M" branded cattle including any commingled cattle, and
 - (4) All roping, exhibition, event, and rodeo cattle.
- (g) Weak cattle or cattle that pose a greater than normal risk of being injured or injuring a person may be sold with a back tag and slaughter only tag to be transported directly to slaughter.
- (h) The owner or operator of the livestock auction market shall keep records of each animal consigned or delivered to the livestock auction market for a period of five (5) years for disease traceback purposes, including but not limited to, the following:
 - (1) "Drive-in" or any other documents identifying the backtag, owner's name and address, and license tag of mode of transportation;
 - (2) Any records kept pursuant to the Livestock Auction Market Act;
 - (3) Records of any official identification applied to the animal or already existing with the animal;
 - (4) Any records available regarding the purchaser of the animals; and
 - (5) Records of official identification that are sufficiently legible and accurate to facilitate successful tracebacks.
- (i) Each livestock auction market shall sign and have on record with the Department the most current livestock market contract for each of the species sold at the market. Markets shall sell only species approved to be handled, sold, or exchanged pursuant to their livestock auction market license.
- (j) The livestock auction market shall make the above records available to Department personnel when requested on non-sale days. In an emergency, records may be requested and shall be made available to Department personnel regardless of sale schedule.
- (i) Each livestock auction market shall sign and have on record with the Department the most current livestock market contract for each of the species sold at the market.

(k) Routine Livestock Auction Markets shall not be scheduled on Sundays. Sunday sales shall require special permission of the State Veterinarian.

35:15-13-6. Movement of livestock through livestock auction markets

- (a) All certificates of veterinary inspection, permits, and other documents, including out-of-state documents accompanying livestock into Oklahoma livestock auction markets, that are incomplete or have been altered in any way are void and shall not be accepted. This shall include documents that are incomplete as to official identification numbers and descriptions of the animals they represent. To be accurate and acceptable, the prefix of each official identification number shall be recorded.
- (b) All livestock shipped or exported from the State of Oklahoma shall meet the state of destination importation requirements.
- (c) ~~Dairy cattle or Mexican cattle~~ Cattle that are required to be tuberculosis tested after change of ownership that are not held at the livestock auction for testing shall be consigned to the purchaser's accredited veterinarian of choice accompanied by a VS 1-27 form to verify the arrival of the animal for testing.
- (d) Restricted cattle shall be tagged with a slaughter only tag except in instances where the cattle have been tested for the disease of concern.
- (e) Cattle tagged with a Slaughter Only Tag shall not be diverted from slaughter channels and shall be transported to an approved livestock facility within seven (7) days of sale.
- (f) It shall be a violation of the Oklahoma Administrative Code to remove a Slaughter Only Tag from an animal.
- (g) It shall be a violation of the Oklahoma Administrative Code to present feral swine to a livestock auction market or to sell feral swine at livestock auction markets.

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.

(i) Routine Livestock Auction Markets shall not be scheduled on Sundays. Sunday sales shall require special permission of the Board of Agriculture or the State Veterinarian.

SUBCHAPTER 15. EQUINE INFECTIOUS ANEMIA (EIA)

PART 1. GENERAL PROVISIONS

35:15-15-4. Definitions

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

"Adjacent herds" means a group or groups of Equidae sharing common pasture or having any direct contact with an affected herd or positive animal and includes any herd containing an animal purchased from or exchanged with the affected herd. Herds separated by a distance of less than two hundred (200) yards are adjacent herds.

"Affected herd" means a herd of Equidae that contains or has contained one or more animals infected with equine infectious anemia and that has not passed all tests required for release from quarantine.

"Approved laboratory" means a laboratory approved prior to operating by the State Veterinarian and the Federal Area Veterinarian In Charge to conduct an official test for equine infectious anemia.

"Approved market" means a stockyard, livestock market, or other premises approved by the Board, where horses or other Equidae are assembled for sale purposes.

~~"Direct shipment to slaughter" means the shipment of equine infectious anemia positive or exposed Equidae from the premises of origin or a quarantined holding facility to a slaughter establishment operated under state or federal inspection without diversion of any type.~~

"Equidae" means a family of perissodactyl ungulate mammals containing a single genus Equus, which includes but is not limited to horses, asses, jacks, jennies, hennies, mules, donkeys, burros, ponies, and zebras.

"Equine infectious anemia (EIA)" means a blood borne viral infection of Equidae.

"Exposed animals" means Equidae that have been in contact with, associated with, or adjacent to animals known to be equine infectious anemia positive. ~~Untested animals sold for slaughter at approved markets shall be considered exposed.~~

"Herd" means one or more Equidae maintained on common ground and includes all Equidae under single or multiple ownership or supervision that are geographically separated but can have an interchange or movement without regard to health status.

"Herd plan" means a herd management, movement, and testing agreement designed by a state or federal veterinarian and a herd owner to control and eradicate equine infectious anemia from an affected, adjacent, or exposed herd of Equidae.

"Livestock dealer" means any person engaged in the business of buying or selling Equidae in commerce or any person registered and bonded under the provisions of the Federal Packers and Stockyards Act of 1921, as amended, who buys Equidae. The term livestock dealer shall not include a farmer or rancher who buys or sells Equidae in the ordinary course of their

farming or ranching operation, unless they are registered and bonded under the Federal Packers and Stockyards Act of 1921, as amended.

"Market veterinarian" means any accredited veterinarian who has entered into a written agreement to work a specified market.

"Negative animals" means Equidae that show a negative response to an official test for equine infectious anemia or have been classified negative by the designated epidemiologist, based on history, supplemental tests, or other epidemiological evidence.

"Extended Equine Certificate of Veterinary Inspection" means an electronic document issued by an accredited veterinarian which allows a horse to be transported for up to six (6) months between states with an Extended Equine Certificate of Veterinary Inspection agreement.

"Official in charge" means any manager, superintendent, secretary, or other person responsible for an equine exhibition.

"Official test" means the agar gel immunodiffusion (AGID) or "Coggins" test, the enzyme-linked immunosorbent assay (ELISA) test, or any other diagnostic test approved by the State Veterinarian.

"Official test record" means an original yellow copy of the VS Form 10-11 or a clear and legible printout of an electronic EIA test chart.

"Owner" means any person with the legal right of possession or having control over any Equidae, and shall include but not be limited to agents, caretakers, and other persons acting on behalf of that person.

"Permit" means an official document that shall accompany positive or exposed Equidae ~~to a quarantined holding facility, an approved slaughter establishment, or approved quarantined premise.~~ The permit shall be issued by the Board, a representative of USDA, or an accredited veterinarian. The permit shall list the name, breed, any registration number, any tattoo, any brand, sex, age, color, and markings sufficient to positively identify each Equidae listed on the form and shall also include the owner's name and address, origin and destination locations, and the purpose of the movement.

"Positive" means any Equidae which discloses a positive reaction to an official test for equine infectious anemia.

~~"Quarantined holding facility" means a quarantined premise approved by the Board to handle positive or exposed Equidae for a period of not more than thirty (30) days prior to direct shipment to an approved slaughter establishment.~~

"State or federal veterinarian" means any veterinarian employed by a state or federal regulatory agency.

"Test eligible" means all Equidae other than foals less than six (6) months of age accompanied by their negative tested dam.

"VS Form 10-11" means the official USDA Equine Infectious Anemia Laboratory Test form labeled VS Form 10-11 or an approved electronic version.

PART 3. PROCEDURES

35:15-15-33. Submission of sample and test charts

(a) All blood samples submitted for official tests shall be accompanied by a properly completed VS Form 10-11 ~~Equine Infectious Anemia Laboratory Test~~ or a USDA approved EIA test chart that listing lists the following:

- (1) Description of the Equidae, including the age, breed, color, sex, animal's name, any registration number, all distinctive markings, including color patterns, brands, tattoos, scars, or blemishes. In the absence of any distinctive color markings or visible permanent identifications, the Equidae shall be identified by indicating the location of all hair whorls, vortices, or cowlicks with an "X" on the illustration provided on the VS Form 10-11.
- (2) Test charts shall include a drawing or a photograph with three views (head, left side, right side).
- (3) Owner's name, address, and telephone number.
- ~~(3)~~ (4) The animal's home premise and county.
- ~~(4)~~ (5) The name, address, and telephone number of the authorized person collecting the test sample.
- ~~(5)~~ (6) The laboratory and the person conducting the test.
- (b) All blood samples taken from the animal listed on the VS Form 10-11 shall be submitted in approved tubes and the tubes shall be identified with the same animal name, registration number, tattoo, or other identification as recorded on the VS Form 10-11.
- (c) Samples submitted without proper identification and proper test charts shall not be classified.
- (d) Authorized personnel shall use only one chart or VS Form 10-11 for each Equidae to be tested.

35:15-15-34. Requirements for approved EIA testing laboratories

- (a) No person shall operate an EIA testing laboratory without first obtaining approval from the Board.
- (b) Conditions of approval.
 - (1) Submit a complete application to the office of the State Veterinarian.
 - (2) Upon receipt of an application, the facility shall be inspected by an authorized agent of the USDA.
 - (3) A report of the inspection shall be submitted to the State Veterinarian and identify the EIA testing laboratory's compliance with the minimum standards for facilities, equipment, and personnel.
 - (4) The applicant shall agree in writing to operate the laboratory in conformity with the Department rules and the requirements of the USDA and shall continually meet all requirements during operation of the laboratory.
 - (5) A determination by the Department that an additional EIA laboratory is necessary in the area.
- (c) Operating requirements.
 - (1) All personnel conducting an official test at an approved laboratory shall receive training prescribed by the National Veterinary Services Laboratories (NVSL).
 - (2) Approved laboratories shall use USDA licensed ELISA test kits and follow standard test protocols prescribed by NVSL.
 - (3) Approved laboratories shall maintain a work log clearly identifying each individual sample and test results.
 - (4) Approved laboratories shall maintain a work log and a file of all submission forms for a period of not less than two (2) years.
 - (5) All approved laboratories shall report all positive results to an official test for EIA to the State Veterinarian's office within twenty four (24) hours.

- (6) A copy of all test charts for positive Equidae shall be sent to the State Veterinarian's office within seventy two (72) hours.
- (7) ~~Negative results shall be reported to the office of the State Veterinarian on a monthly basis.~~
- (8) Approved laboratories shall not test samples until an officially completed test chart is received.
- (d) Inspections, proficiency tests, and licenses.
- (1) The USDA APHIS VS shall randomly and without prior notification collect samples and inspect the facilities and records of all EIA laboratories in Oklahoma at least one (1) time per year.
- (2) All records required to be maintained by approved laboratories shall be open to inspection by state or federal employees during normal business hours.
- (3) All approved laboratories shall pass annual proficiency test requirements administered by the NVSL.
- (4) ~~All approved laboratories shall pass any additional proficiency test requirements administered by the Board.~~
- (5) ~~The Board shall charge a fee to the approved laboratory for administering each additional proficiency test in the amount of Fifty Dollars (\$50.00).~~
- (6) Each approved laboratory shall obtain a license on an annual basis.
- (A) The annual license fee shall be Two Hundred Fifty Dollars (\$250.00).
- (B) The annual license shall expire on January 31 of each calendar year.
- (C) The renewal license application shall be submitted no later than January 31 of each calendar year.
- (D) A renewal application received or postmarked after January 31 shall be in violation of these rules.
- (E) Failure to renew may result in disapproval of the laboratory.
- (F) A fee waiver may be granted to an EIA laboratory at a university or state agency.
- (e) An EIA laboratory may have its approval cancelled if the ~~Board~~ Department finds that the laboratory has failed to meet the requirements or has falsified records or reports.
- (f) Any action taken by the ~~Board~~ Department to cancel laboratory approval shall conform to the Administrative Procedures Act.
- (g) The Department may deny the application of any EIA laboratory if it fails to meet any criteria required by the Department.
- (h) Approved laboratories shall only perform the ELISA test.
- (i) The Department may at its discretion in limited and approved circumstances grant approved laboratories the ability to perform the AGID test for equine ~~being exported from Oklahoma to a foreign country or for horses not residing in Oklahoma.~~ The limited exception shall be detailed in a written agreement between the Department and the approved laboratory.
- (j) Any approved EIA laboratory shall resubmit all application information for approval by the Department upon a change in ownership of the facility or a change in location of the facility.

35:15-15-36. Classification of Equidae tested

- (a) All Equidae tested for EIA pursuant to an official test shall be classified as negative or positive.
- (b) Positive Equidae and retests.

- (1) A positive is any Equidae which discloses a positive reaction to an official test.
- (2) Equidae classified as positive may be retested prior to branding upon the owner's written request to the State Veterinarian no more than fifteen (15) days following the date of the original test.
- (3) All retest samples shall be collected by a state or federal veterinarian, an accredited veterinarian, or an authorized agent of the Board and submitted to the ~~Oklahoma Department of Agriculture, Food, and Forestry Laboratory Services~~ National Veterinary Services Laboratory or an approved laboratory as designated by the State Veterinarian.
- (4) The owner shall provide documentation verifying the equine tested is the same animal identified as positive on the original test document.
- (5) All positive Equidae shall be held in isolation and under quarantine until the retest results are received.
- (6) All other Equidae on the premise shall be held under quarantine until the retest results are received.
- (7) Retest results from the ~~Oklahoma Department of Agriculture, Food, and Forestry Laboratory Services~~ National Veterinary Services Laboratory or an approved laboratory designated by the State Veterinarian shall be the official retest results. Results from other approved laboratories shall not be official when conducted as retests of positive animals.
- (c) All Equidae that show a negative response to an official test shall be classified negative by the approved laboratory.
- (d) The designated epidemiologist may deviate from the positive or negative classification so long as the reasons to do so are documented.

35:15-15-38. Identification of positive Equidae

- (a) Any Equidae with a positive result to an official test for EIA shall be permanently identified by branding with a "73A" on the left shoulder and an implant of an official microchip no more than thirty (30) days after the date of the official test.
- (b) The brand shall be clearly visible and permanently applied by an authorized agent of the Board using a hot iron brand or freeze brand marking no less than two (2) inches high.
- (c) Any Equidae destroyed prior to branding or microchipping shall be described in a written statement by the accredited veterinarian or authorized agent certifying the destruction.
- (d) The certification shall be submitted to the State Veterinarian's office within ten (10) days of the date the animal is destroyed.
- (e) It shall be a violation of these rules for any person to conceal, alter, or remove the "73A" brand or official microchip on any positive animal.

35:15-15-39. Quarantines

- (a) Any Equidae testing positive to an official test shall be quarantined to the premise of origin or other approved ~~premise premises~~ until natural death, or disposition by euthanasia ~~or slaughter, or movement to a quarantined holding facility.~~
- (b) The quarantine shall include the positive Equidae, all other Equidae on the premise, and all Equidae epidemiologically determined to have been exposed to an EIA positive animal.
- (c) The owner shall maintain isolation of all positive Equidae on an affected premise a minimum of two hundred (200) yards from all other negative Equidae and Equidae of unknown status on adjacent premises.

(d) In addition to a quarantine, the owner may enter into a herd plan for an affected herd that specifies testing and movement details, in addition to any exceptions to the specifications of the quarantine.

(e) The owner of an adjacent or exposed herd may enter into a herd plan in addition to or in lieu of a quarantine, pursuant to an agreement with the State Veterinarian.

~~(f) The issuance of a quarantine may be waived if the Board or the State Veterinarian enters into a formal memorandum of understanding with the owner that controls the movement of animals and the disease condition.~~

~~(g) Release of quarantine.~~

(1) No Equidae held under quarantine shall be moved or released ~~until~~ without a written permit or quarantine release signed issued by an authorized agent has been executed.

(2) The EIA quarantine may be released by an authorized agent after all quarantined Equidae in the affected herd ~~test negative to an official test conducted at the Oklahoma Department of Agriculture, Food, and Forestry no less than sixty (60) days nor more than one hundred twenty (120) days following the identification and removal of the last EIA positive animal or the specifications of the quarantine and herd plan have been met pursuant to agreement of the State Veterinarian.~~

(3) The EIA quarantine on exposed, contact, or adjacent herds may be released by an authorized agent after all quarantined Equidae have met the testing requirements in this part or the specifications of the quarantine and herd plan have been met pursuant to agreement of the State Veterinarian.

(4) Epidemiologic data may shall be considered in the release of the quarantine.

35:15-15-42. Movement of positive and exposed animals

(a) All positive and exposed Equidae shall be accompanied by a permit when moved from any quarantined premises.

~~(b) All movement of positive or exposed Equidae shall be direct to an approved slaughter facility, to a quarantined holding facility prior to movement to an approved slaughter facility, or to a research facility approved by the State Veterinarian.~~

~~(c) An owner who intends to change the location of positive or exposed Equidae to an alternate quarantined premise shall request approval at least thirty (30) days in advance and shall only move the animal following an epidemiological investigation by a state or federal veterinarian.~~

~~(d) (c) No diversion from the destination identified on the permit is allowed.~~

~~(e) (d) If a change in destination is necessary, a new permit shall be issued.~~

35:15-15-43. Requirements for quarantined holding facilities

~~(a) Any licensed livestock dealer desiring to operate an equine quarantined holding facility shall file an application for approval of the facility on forms provided by the Board prior to operation.~~

~~(b) The quarantined holding facility shall isolate or confine equine testing positive to an official EIA test and exposed Equidae at least four hundred forty (440) yards from all other Equidae at all times.~~

~~(c) The quarantined holding facility shall be inspected by the Board prior to approval.~~

~~(d) Failure to maintain animals in confinement and isolation at least four hundred forty (440) yards at a quarantined holding facility from all other Equidae at all times shall be a violation of these rules.~~

- ~~(e) Animals held in a quarantined holding facility shall be shipped directly to an approved slaughter facility without diversion and shall not go through a market prior to shipment to slaughter.~~
- ~~(f) All Equidae entering or leaving a quarantined holding facility shall be accompanied by a permit.~~

PART 5. CHANGE OF OWNERSHIP OF EQUIDAE

35:15-15-51. Testing requirements for change of ownership

- (a) All test eligible Equidae sold, bartered, traded, or offered for sale within Oklahoma shall be accompanied by a record of a negative official test for EIA conducted at an approved laboratory within the previous twelve (12) months and naming the seller as the Equidae's owner.
- (b) The record shall include the name of the laboratory, ~~ease~~ test accession number, and the date of the official test.
- (c) A copy of a VS Form 10-11 shall not be considered an official record of test.
- (d) Printed versions of electronic test charts shall be clear and legible. Printed versions that do not meet the requirements shall be considered non-official and the equid shall be re-tested.
- (e) On all private sales, trades, barters, or any sale other than through an approved market, the seller shall be solely responsible for meeting EIA testing requirements prior to sale.

35:15-15-52. Intrastate movement

~~Positive or exposed Equidae shall not be moved intrastate unless accompanied by a permit.~~

PART 7. REQUIREMENTS FOR APPROVED MARKETS

35:15-15-71. Movement of Equidae through approved markets

- (a) All test eligible Equidae offered for sale or sold at any market shall meet one of the following requirements:
- (1) Be accompanied by a record of an official negative test for EIA conducted by an approved laboratory within twelve (12) months of the date of the sale. If the market veterinarian is unable to verify the authenticity of the test record, the market veterinarian shall complete a new test chart and test the Equid for EIA.
- (2) Have a blood sample collected by an accredited veterinarian or authorized agent of the Board at the market and obtain official negative test results for EIA from an approved laboratory before the animal leaves the market.
- (3) Have a blood sample collected by an accredited veterinarian or authorized agent of the Board at the market and be quarantined to the market or to an Oklahoma premise until negative results are received from an approved laboratory.
- (b) A copy of a VS Form 10-11 shall not be considered an official test record.
- (c) All Equidae consigned to an approved market shall be released by the market veterinarian to meet the requirements of this subchapter and the state of destination.
- (d) Known positive or exposed Equidae shall not be consigned for sale at approved markets.
- (e) Equidae found to be positive or exposed through testing conducted at an approved market shall be maintained in quarantine pens, isolated as far as possible from all other Equidae in the

sale facility, and the quarantine pen or pens shall be clearly identified, by sign or paint, with the word "Quarantined."

PART 9. EQUINE EXHIBITIONS

35:15-15-91. Requirements of Equidae entering equine exhibitions

(a) All Equidae moving within the state to equine exhibitions, including but not limited to, fairs, livestock shows, breed association shows, rodeos, racetracks, or other equine gatherings shall be accompanied by a record of a negative official test for EIA conducted within the previous twelve (12) months. The official test shall be conducted by an approved laboratory and the name of the laboratory, the ~~ease~~ test accession number, and the date of the test shall appear on the official test record.

(b) The official in charge shall be responsible for verifying that all Equidae entering an equine exhibition meet all recordation requirements.

(1) An official in charge of an equine exhibition shall not be held responsible for recording or accepting falsified or erroneous information provided by an owner.

(2) Any person providing erroneous or fictitious information shall be in violation of these rules.

(c) Any official in charge who knowingly, negligently, or willfully allows an untested or positive animal to enter an equine exhibition shall be in violation of these rules and the official in charge and the owner of the positive or untested animal shall be equally and individually in violation of these rules.

SUBCHAPTER 17. BOVINE AND BISON BRUCELLOSIS

PART 1. DEFINITIONS AND GENERAL PROVISIONS

35:15-17-3. Identification of vaccinates

Brucellosis vaccinates may be calfhood vaccinated animals or adult vaccinated animals.

(1) Calfhood vaccinated animals are to be permanently identified as vaccinates by tattoo and by official ~~vaccination~~ eartag. Brands, registration tattoos, or other official identification may be used in lieu of official vaccination eartag. For Brucella abortus Strain RB51 vaccinates, the tattoo will include the U.S. Registered Shield and "V", which will be preceded by a letter "R" and followed by a number corresponding to the last digit of the year in which the vaccination was done. Official ~~vaccination eartags and tattoo tattoos~~ shall be applied to the right ear. ~~The eartag will include the state prefix and a "V," "S," "T," "U" or "W" followed by two (2) letters and four (4) numbers officially identifying the vaccinated animal.~~

(2) Adult vaccinated animals are to be permanently identified as vaccinates by tattoo and by official ~~vaccination~~ eartag. For Brucella abortus Strain RB51 vaccinates, the tattoo will include the U.S. Registered Shield and "V", which shall be preceded by the letter "A" and followed by a number corresponding to the last digit of the year in which the vaccination was performed. The accompanying VS Form 4-26 (Calfhood Vaccination Record) should be clearly marked "Adult Vaccination."

SUBCHAPTER 18. EQUINE PIROPLASMOSIS

35:15-18-1. Purpose

Equine Piroplasmosis is a parasitic infection of horses, donkeys, mules, and zebras. It can be spread either naturally by ticks or through contaminated needles, syringes, dental equipment, and surgical equipment. These rules allow the State Veterinarian to issue stop movement orders or quarantines of Equine Piroplasmosis reactors. In managing any premises that houses negative, positive, or reactor equids, exposing a negative equid to the blood or blood products of a positive or reactor equid shall be avoided. Proper handling of infected needles, surgical instruments, dental equipment, blood, or blood products collected from positive or reactive equids, or other blood contaminated fomites, including blood contaminated semen collected for artificial insemination is essential, as Equine Piroplasmosis may also be transmitted through these routes.

35:15-18-2. Definitions

The following words and phrases shall have the following meanings:

"Equine Piroplasmosis reactor" means any Equidae that tests positive for Equine Piroplasmosis from either B. caballi or T. equi but has not been confirmed by NVSL.

"Exposed" means all Equidae in the same herd as a Piroplasmosis positive animal or had recent direct and sustained contact with a Piroplasmosis animal.

"High risk premises" means premises where transmission of Equine Piroplasmosis is known or suspected to have occurred or has the potential to occur, through either natural tick borne transmission or high risk management practices and as determined by the State Veterinarian.

"Low risk premises" means premises where transmission of Equine Piroplasmosis has not been demonstrated or suspected to have occurred and has a low potential to occur, through either natural tick borne transmission or management practices and as determine by the State Veterinarian.

"Negative Equidae" means Equidae that show a negative result to a competitive enzyme-linked immunosorbent assay (c-ELISA) test for Equine Piroplasmosis or have been classified negative by the designated epidemiologist, based on history, supplemental tests, or other epidemiological evidence.

"Positive Equidae" means Equidae that show a positive result to for Equine Piroplasmosis by the National Veterinary Services Laboratories (NVSL) on the complement fixation (CF) test or competitive enzyme-linked immunosorbent assay (c-ELISA) test.

"Racetrack facility" means a premises used to conduct live horse racing events and is not limited to facilities licensed by the Oklahoma Horse Racing Commission.

"Suspect case" means an Equidae with clinical signs consistent with Equine Piroplasmosis, a history of exposure, or a non-negative test.

35:15-18-3. Testing for Equine Piroplasmosis

(a) All racing Quarter horses, Paint horses, and Appaloosas entering a racetrack facility shall have proof of a negative Piroplasmosis test (T. equi) within the past twelve (12) months.

(b) All official samples collected from Equidae for Piroplasmosis testing shall be collected by a state or federal veterinarian, an accredited veterinarian, or an authorized agent of the Board. Samples shall be submitted to an approved lab within 30 days of collection.

(1) The State Veterinarian, a state or federal veterinarian, an authorized agent of the Board, or an accredited veterinarian acting under authority of the State Veterinarian may

- cause an official test to be conducted on any Equidae known or suspected to be infected with or exposed to Piroplasmosis.
- (2) If the owner refuses or neglects to comply with the testing requirements, the Equidae shall be quarantined and the movement of any Equidae from the premises shall be prohibited.
- (3) The State Veterinarian may provide and require supervision for collection of test samples submitted by an accredited veterinarian.
- (4) Any person providing erroneous or fictitious information shall be in violation of these rules.
- (5) Any person altering, defacing, or falsifying information on a test chart, permit, certificate of veterinary inspection, or any form associated with the Piroplasmosis program shall be in violation of these rules.
- (6) Equine piroplasmosis laboratory results shall include a description of the horse.
- (c) All Equidae epidemiologically determined to have been exposed to a Piroplasmosis positive animal shall be quarantined and tested by a state or federal veterinarian, an accredited veterinarian, or an authorized agent of the Board.
- (1) Test results for suspect cases and reactor Equidae shall be confirmed by NVSL.
- (2) Positive results shall be confirmed by NVSL.
- (3) Exposed Equidae that test negative shall be retested at least thirty (30) calendar days from last exposure to a Positive Equidae.
- (4) Epidemiologic data may be considered in the testing requirements for Exposed Equidae and affected herds.
- (d) Release of quarantine.
- (1) No Equidae held under quarantine shall be moved or released without a permit or quarantine release signed by an authorized agent has been executed.
- (2) Exposed Equidae may be released from quarantine after obtaining a negative test a minimum of thirty (30) calendar days from the last exposure.
- (3) Epidemiologic data may be considered in the release of the quarantine.
- (e) Foals born to positive mares are considered exposed and shall be tested because Equine Piroplasmosis hemoparasites may be transmitted in utero or at parturition.
- (1) Foals under six (6) months of age may carry maternal antibodies to infection but may not be infected. Therefore, seropositive foals without other evidence of infection via PCR or blood smears shall be retested after waning of maternal antibodies.
- (2) Foals shall be kept in quarantine until weaned or separated from the mare and until tested negative for Equine Piroplasmosis at NVSL.

35:15-18-4. Management and disposition of Positive Equidae

- (a) Any Equidae confirmed positive for Equine Piroplasmosis shall be officially identified by the Department or regulatory personnel acting under the authority of the State Veterinarian, unless already electronically identified.
- (b) Options for managing Positive Equidae include quarantine, quarantine with treatment, export, and euthanasia. Conditions for quarantine shall be outlined in an established herd plan between the owner and the State Veterinarian. Standards for quarantine shall differ for high risk and low risk premises.
- (c) Management of Positive Equidae shall be conducted under the direct supervision of the State Veterinarian.

(1) Quarantine on high risk premises:

(A) Positive Equidae shall be housed in a tick free facility on any premises approved by the State Veterinarian.

(B) If no tick free facility is available, the Positive Equidae shall be housed at a predetermined safe distance from other Equidae. The State Veterinarian shall determine the predetermined distance with the goal of reducing the risk of tick borne transmission and shall consider tick species in the area, natural geographical barriers, seasonal variation, the potential role of wildlife in tick movement, and other factors.

(C) A tick free facility may be of any size but shall be surrounded by two (2) fences a minimum of thirty (30) feet apart, with the zone between the fences free of vegetation and animals.

(D) Prior to moving Positive Equidae into a facility, the Equidae, the facility, and the thirty (30) foot barrier zone shall be treated to eliminate ticks using an approved acaricide.

(i) Positive Equidae shall be maintained on an acaricide treatment interval pursuant to label directions of an approved product to minimize tick infestations.

(ii) Acaricides used shall be labeled as effective against and approved for use on Equidae or on the environment (i.e., pasture, stall, soil, etc.).

(E) Unless approved by the State Veterinarian, only positive Equidae are allowed in the tick-free facility. Dogs, other domestic animals, or livestock shall not be allowed to enter the facility unless maintained on acaricide treatment and remain tick free at all times.

(F) Facility inspections shall be conducted pursuant to the following schedule:

(i) The State Veterinarian shall make at least two (2) unannounced inspections of the facility within the first sixty (60) calendar days of quarantine to ensure no unauthorized animals are moving to or from the facility, the thirty (30) foot zone is free of vegetation and animals, and the Positive Equidae are not tick infested.

(ii) During the first year of quarantine, premises shall be inspected at least quarterly, or more frequently as determined by the State Veterinarian, to assess compliance. At least one of these inspections shall be unannounced.

(iii) After the first year of quarantine, there shall be a minimum of two (2) intensive premises inspections per year for premises that repeatedly demonstrate complete compliance. These inspections may be scheduled or unannounced at the discretion of the State Veterinarian.

(iv) Frequency of inspections shall be increased in cases where the State Veterinarian has identified the potential for noncompliance.

(G) Working, exercising, or allowing other contact between Positive and Negative Equidae shall not be allowed except in the following circumstances:

(i) Any contact with other animals shall only occur on the quarantined premises.

(ii) Both Positive and Negative Equidae shall be treated with an approved acaricide not less than twenty four (24) hours and not more than fourteen (14) days prior to any contact.

- (iii) Equidae shall not be left unattended in pastures. When acaricide treated Positive Equidae are not being ridden, they shall be placed in a trailer or kept a minimum of ten (10) feet from acaricide treated Negative Equidae.
 - (iv) Trailers used to transport Positive Equidae within the quarantined premises shall be treated with acaricide after each use.
 - (v) Premises where Positive and Negative Equidae have any contact shall be subject to more frequent inspections by the State Veterinarian.
- (2) Quarantine on low risk premises:
 - (A) Positive Equidae shall be housed in separate pens or pastures away from Negative Equidae.
 - (i) There shall be a minimum ten (10) foot separation maintained between Positive Equidae and Negative Equidae on the same or adjacent low risk premises, with vegetation kept no higher than four (4) inches tall in the intervening space.
 - (ii) If the ten (10) foot separation is not possible due to facility size or other limiting factors, the State Veterinarian shall evaluate the facilities on a case-by-case basis to determine if sufficient space and barriers are available to establish and maintain the necessary isolation of Positive Equidae.
 - (B) Inspections shall occur on the same schedule as for Positive Equidae quarantined on high risk premises.
- (3) Quarantine and enrollment in an approved Equine Piroplasmosis treatment program shall be available upon the approval of the State Veterinarian.
 - (A) Any associated costs for an approved Equine Piroplasmosis treatment program shall be the owner's responsibility.
 - (B) Management of Positive Equidae enrolled in an approved Equine Piroplasmosis treatment program shall be in accordance with the standards specified in this section.
 - (C) If an Equidae completes an approved treatment program, effectively demonstrates freedom from the organism, and no longer meets the confirmed positive case definition for Equine Piroplasmosis, the Equidae may be eligible for quarantine release at the discretion of the State Veterinarian.
- (4) It shall be the owner's responsibility to coordinate with authorities in the destination country for the export of an Equine Piroplasmosis Positive Equidae and to arrange for transportation. The Positive Equidae shall be transported to the export facility under an APHIS movement permit and official seal.
- (5) Euthanasia and disposal:
 - (A) Both euthanasia and disposal shall be documented and conducted pursuant to the supervision of the State Veterinarian.
 - (B) Federal and State indemnity shall not be available.

35:15-18-5. Release and removal options for Exposed Equidae

- (a) On high risk premises where positive Equidae remain, exposed Equidae may be released from quarantine and removed from the premises under the following conditions:
 - (1) NVSL tests the Exposed Equidae and determines they are negative.
 - (2) The Negative Equidae are treated for ticks using an approved acaricide.

- (3) Exposed Equidae are confined to a negative equine facility (e.g., pen, paddock, stall):
- (A) The negative facility shall contain no vegetation and shall have been treated with an approved acaricide;
 - (B) The facility is surrounded by two fences a minimum of thirty (30) feet apart with a zone free of vegetation between the fences or barriers;
 - (C) The thirty (30) foot zone around the facility is kept free of vegetation and treated with an acaricide approved for treating facilities to eliminate ticks. Treatments shall be repeated as often as necessary according to label instructions to maintain a zone with no ticks. If thirty (30) feet of separation is not possible, the State Veterinarian shall evaluate the facilities on a case-by-case basis to determine whether sufficient space and barriers are available for isolating the Negative Equidae; and
 - (D) No equipment, tack, hay, feed, bedding, manure, clothing, or other items have been brought into the negative facility from any Positive Equidae premises.
- (4) After the animals are confined, they are retreated with an acaricide pursuant to the product label requirements.
- (5) The Negative Equidae are inspected for ticks ("scratched") and retested by the NVSL not less than thirty (30) days following entry into the negative equine facility. Exposed Equidae that are negative on the retest and free of ticks may be released from the quarantine if treated with an approved acaricide and removed from the premises.
- (6) Dogs, other domestic animals, or livestock that have access to a negative equine facility shall be treated to prevent tick transmission to the facility.
- (b) After all Positive Equidae have been removed from high risk premises, the remaining Equidae may be released from quarantine through the following process based on the presence of vegetation on the premises:
- (1) Premises with no vegetation:
 - (A) After all Positive Equidae leave the premises, the Negative Equidae shall be treated for ticks using an approved acaricide.
 - (B) Treat the premises with an approved acaricide.
 - (C) Retest the negative Exposed Equidae at NVSL no less than thirty (30) days after removing the Positive Equidae.
 - (D) If the Equidae are negative on the retest, the quarantine may be released by the State Veterinarian.
 - (2) Premises with vegetation:
 - (A) After all Positive Equidae leave the premises, the Negative Equidae shall be treated for ticks using an approved acaricide.
 - (B) The vegetation shall be mowed to less than four (4) inches, residual grass clippings shall be removed, and the premises shall be treated with a registered acaricide effective against ticks and approved for grazing pastures. While spraying pastures, animals shall be kept in stalls, sheds, trailers, or other areas until the forage is safe for ingestion, per acaricide label directions.
 - (C) The Negative Exposed Equidae shall be retested by NVSL no less than thirty (30) days after removing Positive Equidae.
 - (D) If the Equidae are negative on the retest, the quarantine may be released by the State Veterinarian.

- (E) Dates of treatment shall be recorded on a treatment record maintained by the owner.
- (F) The State Veterinarian shall review records regularly for the duration of the quarantine period.
- (c) Exposed Equidae on low risk premises may be released from quarantine order under the following conditions:
- (1) NVSL tests the Exposed Equidae and finds them negative for Equine Piroplasmosis.
 - (2) Negative Equidae on the premises or adjacent premises are separated from Positive Equidae by a minimum of ten (10) feet, with vegetation kept below four (4) inches tall in the intervening space.
 - (3) If ten (10) feet of separation is not possible due to facility size or other limiting factors, the State Veterinarian shall evaluate the facilities on a case-by-case basis to determine whether sufficient space is available to isolate Positive Equidae.
 - (4) At the time they are tested, all Equidae shall undergo an initial treatment for ticks with an approved acaricide.
 - (5) Negative Equidae shall be retreated following initial treatment, according to product label instructions, and kept free of ticks until retested.
 - (6) Negative Equidae shall be inspected for ticks (scratched) and retested negative by NVSL not less than thirty (30) days following the initial treatment and separation from Positive Equidae.
 - (7) If Exposed Equidae are removed from the premises within thirty (30) days of a verified negative status (i.e., the releasing test) and within fourteen (14) days of a treatment, no additional testing or treatment shall be required.
 - (8) If the State Veterinarian identifies possible pasture contamination after removal of a Positive Equidae, the following steps shall be taken for twelve (12) months after removal:
 - (A) Apply an acaricide treatment each time the Negative Equidae is moved from the premises;
 - (B) Within thirty (30) days prior to movement, retest the Negative Exposed Equidae, and confirm their negative status; and
 - (C) Conduct a final negative test at the end of the twelve (12) month period for all remaining Negative Exposed Equidae.
 - (9) If a Negative Exposed Equidae on a low risk premises subsequently tests positive for Equine Piroplasmosis, the classification of the premises shall be reevaluated by the State Veterinarian. Epidemiological evidence of disease transmission may elevate the classification of the premises to high risk.

35:15-18-6. Long term maintenance of Negative Exposed Equidae

- (a) On premises where Negative and Positive Equidae remain long term, management practices shall minimize the risk of Equine Piroplasmosis transmission.
- (b) Long term maintenance of Negative Exposed Equidae on high risk premises that have Positive Equidae shall meet the following:
- (1) The owner shall complete all requirements found in these rules, except instead of confining the Negative Equidae to a prescribed facility, the Positive Equidae shall be confined to an enclosure with the same restrictions and requirements.
 - (2) The Negative Equidae shall be retested for Equine Piroplasmosis annually and within thirty (30) days prior to any movement from the premises or change of ownership.

- (3) Immediately prior to moving any Negative Equidae, the State Veterinarian shall inspect (scratch) the Negative Equidae for ticks and require treatment of the Equidae with an approved acaricide. The animals shall not be moved unless the inspection reveals no ticks and the animals move off the premises with acaricide.
- (c) Long term maintenance of Negative Exposed Equidae on low risk premises that have Positive Equidae shall comply with the following:
- (1) Negative and Positive Equidae shall be kept separated.
 - (2) Negative Equidae shall be retested and found negative within thirty (30) days prior to movement off the premises.
 - (3) The owner shall treat Negative Equidae with an approved acaricide not less than twenty four (24) hours and not more than fourteen (14) days prior to moving them from the premises.
 - (4) Dates of acaricide treatment shall recorded on a treatment record maintained by the owner.
 - (5) Negative Exposed Equidae shall receive annual retests if Positive Equidae remain on the premises.
 - (6) If a Negative Exposed Equidae on a low risk premises subsequently tests positive for Equine Piroplasmosis, the classification of the premises shall be reevaluated by the State Veterinarian. Epidemiological evidence of disease transmission may elevate the classification of the premises to high risk.

SUBCHAPTER 19. POULTRY REGULATIONS

35:15-19-1. Definitions

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

"Baby poultry" means newly hatched poultry that have not been fed or watered.

"Check testing" means the process of collecting blood samples from birds in a flock by state inspectors to verify compliance with rules and testing procedures used by permitted testers.

"Custom hatching" means a process in which a person incubates eggs, through mechanical means, for another person.

"Dealer" means a person other than a flock owner or hatchery who offers poultry products for sale or trade.

"Domesticated" means propagated and maintained under the control of a person.

"Exhibition poultry" means domestic fowl bred for purposes of meat or egg production and competitive or noncompetitive showing.

"Flock" means:

(A) As applied to breeding, all poultry of one kind of mating (breed and variety or combination of stocks) and one classification on one farm.

(B) As applied to disease control, all of the poultry on one farm except that, at the discretion of the Official State Agency, any group of poultry segregated from another group and has been segregated for a period of at least 21 days may be considered a separate flock.

"Fowl typhoid" or "typhoid" means a disease of poultry caused by *Salmonella gallinarum*.

"Hatchery" means hatchery equipment on one premise operated or controlled by any person used for the incubation of eggs with the intention of:

- (A) Selling or dispensing of hatched chicks before they reach sixteen (16) weeks of age, or
- (B) Custom hatching.

"Infected flock" means a flock in which one or more birds have been diagnosed by an approved test or isolation of a reportable salmonella group.

"Laboratory" means a laboratory approved by the Board for performing approved serological testing procedures and bacteriological culture techniques.

"Negative test result" means an approved testing procedure in which the blood or serum antigen mixture fails to agglutinate.

"Official leg band" or "wing band" means an individual identification device for poultry approved by the State Veterinarian.

"Official State Agency" means the Department.

"Official test" means the official blood tests for pullorum-typhoid shall be the standard tube agglutination test, the microagglutination test, the rapid serum test, or the stained antigen, rapid whole-blood test for all classes of poultry.

"Permitted tester" means a person qualified and authorized by the State Veterinarian or the poultry disease control authority of the state of origin to collect and test blood samples for the pullorum-typhoid eradication program.

"Positive test result" means an approved testing procedure in which there is complete or nearly complete agglutination.

"Poultry" means domesticated fowl, including chickens, turkeys, ostriches, emus, rheas, cassowaries, waterfowl, ~~game chickens~~, and game birds, except doves and pigeons, which are bred for the primary purpose of producing eggs or meat.

"Poultry house" or "house" means any building used to house poultry.

"Products" means poultry breeding stock, hatching eggs, baby poultry, and started poultry.

"Pullorum disease" or "pullorum" means a disease of poultry caused by Salmonella pullorum.

"Quarantine" means, but is not limited to, any order, hold, affected area, quarantine, infected premise or area, movement restrictions of any kind, or notice issued by any state or federal entity specifying boundaries or conditions of the quarantine.

"Started poultry" means young poultry that have been fed and watered and are less than sixteen (16) weeks of age.

"State" means any state, the District of Columbia, the Virgin Islands, or Puerto Rico.

"State Inspector" means any person employed by the Official State Agency to supervise the selecting and testing of participating flocks and to perform the official inspections and tests necessary to verify compliance with the requirements of the National Poultry Improvement Plan.

35:15-19-2. Applicability and scope

The rules in this Subchapter shall apply to all persons producing hatching eggs, hatching, selling, or exhibiting domesticated poultry within the State of Oklahoma. The National Poultry Improvement Plan regulations found in Title 9 of the Code of Federal Regulations, Sections 145-147, are hereby adopted in their entirety.

SUBCHAPTER 22. SWINE PSEUDORABIES AND BRUCELLOSIS

PART 1. GENERAL PROVISIONS

35:15-22-1. Definitions

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

"Breeding swine" means all sexually intact swine six (6) months of age or older as determined by an accredited veterinarian.

"Brucellosis" means the contagious infection and communicable disease caused by the bacteria of the genus *Brucella*.

"Commercial production swine" means swine that are continuously managed and have adequate facilities and practices to prevent exposure to either transitional production or feral swine.

"Commuter herd" means two or more groups of swine under common ownership or supervision that are located on more than one premise in more than one state and that have an interchange or movement of swine between the premises in those states as part of the normal feeding, breeding, or growing operation without a change of ownership.

"Commuter herd agreement" means a written herd management and testing agreement made by the chief animal health officials of all states where the commuter herd resides and the herd owner.

"Entry permit" means official permission from the State Veterinarian obtained prior to moving swine into Oklahoma valid for thirty (30) days after the date of issuance that may be obtained by telephone by providing the following information: name and address of the consignor; name and address of the consignee; and the number, age, sex, and breed of the swine to be imported.

"Exposed swine" means swine that have been in contact with, associated with, or adjacent to any animal known to be pseudorabies or brucellosis positive.

"Farm of origin" means the farm where the swine were born or where the swine have resided for at least the previous ninety (90) consecutive days.

"Feeder swine" means swine intended to be fed to a finished slaughter weight and not intended for breeding or exhibition.

"Feral swine" means any hog, pig, or swine species (*Sus scrofa*) including, but not limited to, Russian and European wild boar that are running at large, free roaming, or wild upon public or private lands in this state, and shall also include any hog, pig, or swine species that has lived any part of its life running at large, free roaming, or wild. The term feral swine shall also include any feral phenotype swine, whether ~~or not~~ running at large, free roaming, or wild.

"Herd" means one or more swine maintained on common ground and includes all swine under common ownership or supervision that are geographically separated but have an interchange or movement of swine between the groups.

"Infected herd" means a herd in which an animal has been determined by the designated epidemiologist to be infected with pseudorabies or brucellosis using an official test.

"Isolation" means separation of swine by a physical barrier so that other swine do not have access to the isolated swine's body, excrement, or discharges and the swine do not share a building with a common ventilation system with other swine and are kept at a distance from other swine as determined by the designated epidemiologist.

"Livestock auction market" means a stockyard, livestock market, or other premises approved by the Department where livestock are assembled for sale.

"Monitored Swine Herd" means a commercial production swine herd that undergoes regular testing for pseudorabies and brucellosis.

"Premium Sale" means an auction held in conjunction with a livestock show in which exhibitors are awarded prizes for the work they have done to show their animals.

"Official Blood Sample" means a blood sample obtained and submitted by a state or federal regulatory official, an accredited veterinarian, or individuals under the supervision of an accredited veterinarian for pseudorabies or brucellosis testing of Oklahoma origin swine. No other blood samples submitted for testing shall be considered an official sample. Costs of blood sample collection and submission shall be paid by the owner. In the event funds are made available by the United State Department of Agriculture or the State Board of Agriculture for blood sample collection or submission or for laboratory fees, these funds may be used without interruption or change in any other program functions or policies.

"Official test" means a test approved by the USDA to be conducted on swine for the diagnosis of pseudorabies or brucellosis and performed in a laboratory listed in a Veterinary Services Notice.

"Official 95/10 random sample test" means a sampling protocol utilizing official pseudorabies and brucellosis tests that provide a ninety-five (95) percent probability of detecting infection in a herd in which at least ten (10) percent of the swine are seropositive for pseudorabies or brucellosis. Each segregated group of swine shall be considered a separate herd and sampled as follows:

- (A) less than 100 head - test 25.
- (B) 100-200 head - test 27.
- (C) 201 - 999 head - test 28.
- (D) 1,000 head and over - test 29.

"Owner-shipper statement" means a statement signed by the owner or shipper of swine which includes the number of swine to be moved, the points of origin and destination, the names of the consignor and consignee, and any additional required information.

"Pseudorabies" means the infectious and communicable disease of livestock and other animals also known as Aujeszky's disease, mad itch, or infectious bulbar paralysis.

"Slaughter swine" means swine consigned directly to a slaughter establishment.

"Swine Exhibition" means any swine gathering that allows opportunity for commingling of swine under separate ownership, including but not limited to fairs, livestock shows, breed association shows, or sales.

"Transitional production swine" means any swine that are bred, raised, or intended for exhibition, any swine that has outdoor exposure during any portion of its production cycle, or any other swine that have reasonable opportunities to be exposed to feral swine.

"Validated / Qualified Herd or V/Q Herd" means a herd of breeding swine maintained under a surveillance program whereby twenty five percent (25%) of the herd tests negative for pseudorabies and swine brucellosis on a quarterly basis.

PART 5. REQUIREMENTS FOR A VALIDATED/QUALIFIED HERD

35:15-22-53. V/Q herd maintenance

(a) V/Q herd status shall be maintained by subjecting all swine six (6) months of age or older to brucellosis and pseudorabies tests at least once each testing year.

(1) The herd owner shall test negative twenty five percent (25%) of swine six (6) months of age and older every quarter.

(2) Quarterly testing dates shall be assigned by the Department.

(b) No swine shall be tested twice in a single twelve (12) month period to comply with the twenty five percent (25%) requirement unless a V/Q herd consists of less than four (4) test eligible swine. If the herd consists of less than four (4) test eligible swine, one or more of the animals shall be repeat tested during the same twelve (12) month testing period and quarterly tests shall not be missed.

(c) All swine six (6) months of age and older within a V/Q herd shall be tested at least once in any twelve (12) month period, even if the testing exceeds the twenty five percent (25%) requirement.

(d) If any quarterly tests are missed, late, incomplete, inaccurate, or do not meet V/Q herd standards, the V/Q herd status may be suspended or revoked. A ~~past~~ history of noncompliance by the herd owner may result in prevention of the herd's participation in the program.

(e) The herd owner shall submit a completed renewal application and ~~inventory~~ inventory with the first quarterly herd test each testing year.

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 May 15 each year for summer fall exhibitions and after November 10 each year for winter and spring exhibitions. These tests are valid for the entire respective exhibition season, unless in the opinion of the designated epidemiologist the swine have been exposed to pseudorabies or brucellosis. The swine shall also be accompanied by a copy of the official test chart or a certificate of veterinary inspection listing the test results, laboratory name, laboratory accession number, and individual identification.

(2) Swine originating from outside of Oklahoma shall meet the requirements of OAC 35:15-22-33(a) - (c).

(3) Each swine shall originate from a V/Q herd and only be exhibited by an immediate family member of the VQ herd owner. The V/Q herd number, most recent quarterly test date, and official identification of all swine being exhibited shall be listed on the certificate of veterinary inspection.

35:15-22-72. Swine exhibition event requirements

(a) No swine exhibitions shall be held within five (5) working days after the dates in OAC 35:15-22-71(c) to allow time for required testing to be performed. Swine exhibition permits shall not be approved during that time.

(b) Prior to an event, the exhibition official in charge shall obtain one of the following:

- (1) A federal premises identification number for the location of the swine exhibition, or
- (2) state location identification number.

~~(b)~~ (c) Prior to the event, the exhibition official in charge shall also obtain a swine exhibition permit from the Department by filing an application that at a minimum shall include:

- (1) The name of the official in charge,
- (2) The name of the exhibition,
- (3) The date of the exhibition,
- (4) The location of the exhibition,
- (5) The federal premises identification number or state location identification number, and
- (6) A signature certifying the exhibition official understands and agrees to the requirements for conducting a swine exhibition.

~~(c)~~ (d) The exhibition official in charge shall verify that all swine allowed to enter the exhibition grounds meet all identification, testing, and recordation requirements prior to entry.

~~(d)~~ (e) The exhibition official in charge shall submit, at a minimum, the following records to the Department within fifteen (15) days after the exhibition:

- (1) Name, address, telephone number, and federal premise identification number or state location identification number of participants, and
- (2) Official identification, age, breed, and sex of swine exhibited.

~~(e)~~ (f) A swine exhibition shall not include a livestock market.

(g) No swine exhibitions shall be conducted after March 1 of each year, except for the Oklahoma Youth Expo until its conclusion.

(1) If a premium sale is conducted after March 1, the swine may not return for the event.

(2) A swine exhibition permit shall not be approved pursuant to (g) above.

(3) If proof exists of a swine being exhibited after March 1, that swine and any other swine from the same premises are prohibited from attending the Oklahoma Youth Expo.

SUBCHAPTER 38. BOVINE TRICHOMONIASIS

35:15-38-1. Definitions

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

"Acceptable specimen" means a specimen determined satisfactory for diagnostic testing by the testing laboratory, including complete documentation.

"Approved feedlot" means a confined animal feeding operation (CAFO) licensed by the Department.

"Approved laboratory" means any laboratory designated and approved by the state veterinarian for examining T. foetus samples.

"Approved veterinarian" means a licensed accredited veterinarian who has complied with all Department regulations and educational requirements, and who has been approved by the Department to conduct necessary tests, vaccinations, inspections, and other duties.

"Bovine" means any sexually intact male and female animal of the genus bos.

"Change of ownership" means control of an animal being transferred between two (2) persons by sale, lease, or lending.

"Commingle" means animals of opposite sex and/or belonging to different owners in the same enclosure or pasture with a reasonable opportunity for sexual contact.

"Exposed bull" means an untested bull that has had an opportunity to breed exposed female cattle.

"Exposed female" means a female bovine animal that is sexually intact and sexually mature that could have been exposed to a positive T. foetus bull.

"Herd" means the group of animals consisting of all male and female bovines over twelve (12) months of age that have commingled during the last twelve (12) months.

"Negative T. foetus bull" means a bull that qualifies by one of the following:

(A) ~~originate from a herd not known to be infected and has had a~~ A negative official T. foetus bull test within the last year the previous sixty (60) days with no exposure to female cattle for one (1) week prior to the test and no exposure to female cattle between the test and change of ownership; or

(B) originate from a positive herd but has a series of three negative official T. foetus bull tests at intervals of at least one week; ~~or~~

(C) ~~a negative official T. foetus bull test within sixty (60) days prior to entry with no sexual activity for one (1) week prior to the test and between the test and movement.~~

"Official T. foetus laboratory testing" means the laboratory procedures that shall be approved by the state veterinarian for ~~culture and identification~~ determination of a bovine T. foetus status.

"Official T. foetus bull test" means the sampling of the preputial content of a bull by a licensed, accredited and trichomoniasis certified veterinarian or a veterinarian from the Oklahoma Department of Agriculture, Food, and Forestry. The test shall be conducted after at least one (1) week separation from all female bovine and the bull and sample shall be officially identified and documented for laboratory submission. The test shall consist of one (1) ~~Real Time PCR test~~ approved and validated testing procedure. Pooled samples are acceptable.

"Oklahoma trichomoniasis certified free herd" means a herd of cattle that has been determined to be free of bovine trichomoniasis by following the requirements of OAC 35:15-38-4.

"Pooled sample" means a method of sampling where a sample from each bull is submitted in an individual transport pouch approved media containers and the laboratory mixes aliquots from up to five (5) samples together to economize the test cost.

"Positive T. foetus bull" means a bull that has had a positive T. foetus test.

"Positive T. foetus herd" means the group of all bovines which have had any opportunity for sexual contact in the previous breeding season and in which any male or female animal has had a positive diagnosis for T. foetus.

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

"Suspect T. foetus bull" means a bull from a positive T. foetus herd that has not yet had three (3) consecutive negative official T. foetus bull tests.

"Tritrichomonas foetus" or "T. foetus" means a contagious venereal protozoan parasite disease of the trichomonas foetus species that frequently results in lifetime infection of male

~~bovidae~~ Bovidae as an inapparent carrier and causes infertility, pyometra, abortions and reproductive inefficiency in female ~~Bovidae~~ Bovidae.

"Unacceptable sample" means a sample that is deemed not diagnostic by the official testing laboratory.

"Virgin bull" means a sexually intact male bovine less than twelve (12) months of age or a sexually intact male bovine between twelve (12) and eighteen (18) months of age that has had no breeding and no potential breeding contact with females.

"Virgin bull affidavit" means a signed affidavit from the owner, manager, or veterinarian that verifies the bull is between twelve (12) and eighteen (18) months of age and has had no breeding and no potential breeding contact with females.

35:15-38-3. Import requirements for reproductive bovine females

(a) Female cattle or bison may enter Oklahoma with no restrictions unless originating from a known positive T. foetus herd.

(b) A female bovine originating from a known positive T. foetus herd may enter Oklahoma only upon a CVI with a statement that the female is from a known T. foetus infected herd pursuant to one of the following circumstances:

- (1) The female bovine has a calf at side and no exposure to other than known negative bulls since parturition;
- (2) The female bovine are at least one hundred twenty (120) days pregnant;
- (3) The female bovine are known to be virgin heifers;
- (4) The female bovine are heifers exposed only to known negative bulls and are not yet one hundred twenty (120) days pregnant;
- (5) The female bovine are documented to have had at least one hundred ~~twenty (120)~~ eighty (180) days of sexual isolation; or
- (6) The female bovine are consigned directly to slaughter or to a quarantined feedlot.

SUBCHAPTER 40. BOVINE TUBERCULOSIS

PART 1. DEFINITIONS

35:15-40-1. Definitions

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

"Accredited free state" means a state that maintains full compliance with all of the provisions of the USDA Uniform Methods and Rules for bovine tuberculosis eradication and where no evidence of bovine tuberculosis has been disclosed for five (5) or more years.

"Accredited herd" means a herd of cattle, bison, or dairy goats that passed at least two (2) consecutive negative caudal fold tuberculin tests at an interval of not less than ten (10) months nor more than fourteen (14) months, has no other evidence of bovine tuberculosis, and meet the standards of this Subchapter.

"Affected herd" means a herd of cattle, bison, or dairy goats that contains, or has recently contained, one (1) or more animals infected with Mycobacterium bovis and has not passed the required tests necessary for release from quarantine.

"Annual tests" means those tests conducted at intervals of not less than ten (10) months nor more than fourteen (14) months.

"Approved feedlot" means a confined dry lot area for the finish feeding of animals on a concentrated feed with no facilities for pasturing or grazing that is licensed as a Concentrated Animal Feeding Operation by the Department's Agriculture Environmental Management Services ~~Division~~ Division.

"Auction" means a public sale of cattle, bison, or dairy goats to the highest bidder.

"Bison" means a bovine-like animal (genus Bison) commonly referred to as American buffalo or buffalo.

"Bovine Tuberculosis" means a disease in cattle, bison, or dairy goats caused by Mycobacterium bovis.

"Cattle" means all domestic bovine (genus Bos).

"Caudal Fold Tuberculin Test" or **"CFT"** means the intradermal injection of 0.1 milliliters of USDA bovine purified protein derivative (PPD) tuberculin into either side of the caudal fold, with reading by visual observation and palpation seventy-two (72) hours (+ or - 6 hours) following injection. Animals or herds of unknown status shall not be subjected to retest at intervals of less than sixty (60) days.

"Commission firm" means a person, partnership, or corporation that buys or sells livestock as a third party and reports to the seller or to the buyer details of the transactions whether or not a fee is charged for the services.

"Comparative Cervical Tuberculin Test" or **"CCT"** means the intradermal injection of biologically balanced bovine PPD tuberculin and avian PPD tuberculin at separate sites in the cervical area and a determination as to the probable presence of bovine tuberculosis (M. bovis) by comparing the responses of the two (2) tuberculins seventy-two (72) hours (+ or - 6 hours) following injection.

"Dairy cattle" means any typical dairy framed animals and dairy crossbred animals as determined by the inspecting veterinarian.

"Dairy goats" means domestic caprine (genus Capra) kept for the purpose of producing milk for human consumption.

"Dealer" means any person, firm, or partnership engaged in the business of buying or selling cattle, bison, or dairy goats in commerce, either on the dealer's own account or as the employee or agent of the vendor or purchaser, or any person engaged in the business of buying or selling cattle, bison, swine, sheep, or dairy goats in commerce on a commission basis. The term shall not include any person who buys or sells cattle, bison, or dairy goats as a part of their own bona fide breeding, feeding, or dairy operation; is not engaged in negotiating the transfer of cattle, bison, or dairy goats; or receives cattle, bison, or dairy goats exclusively for immediate slaughter on the person's own premise.

"Eradication" means the complete elimination of bovine tuberculosis from cattle and bison in the state so that the disease does not appear unless introduced from another species or from outside the state.

"Event" means a competition in which Mexican roping cattle, US born Corriente cattle, Longhorn cattle used for roping, or other cattle that may have commingled with these cattle are utilized.

"Exposed animals" means cattle, bison, or dairy goats that have been exposed to bovine tuberculosis by reason of associating with known tuberculous animals.

"Feedlot" means a confined dry lot area for the finish feeding of animals on a concentrated feed with no facilities for pasturing or grazing.

"Herd" means one or more cattle, bison, or dairy goats maintained on common ground or two (2) or more groups of cattle, bison, or dairy goats under common ownership or supervision that are geographically separated but can have an interchange or movement without regard to health status.

"Herd plan" means a herd management and testing plan designed by a state or federal regulatory veterinarian and the herd owner that will control and eventually eradicate bovine tuberculosis from an affected, adjacent, or exposed herd.

"High risk cattle" means cattle from countries, states, or areas that are not considered Bovine Tuberculosis free, including but not limited to, dairy cattle, exhibition cattle, rodeo cattle, and Mexican origin cattle.

"Mexican origin" means cattle that originate or have ever resided in Mexico.

"Modified Accredited Advanced State" means a state that is actively participating in the eradication of bovine tuberculosis and that maintains its status in accordance with the provisions of the USDA Uniform Methods and Rules for Bovine Tuberculosis Eradication.

"Modified Accredited State" means a state that is actively participating in the eradication of bovine tuberculosis and that maintains its status in accordance with the provisions of the USDA Uniform Methods and Rules for Bovine Tuberculosis Eradication.

"Natural additions" means animals born and raised in a herd.

"No Gross Lesion Animals" or **"NGL"** means any cattle, bison, or dairy goats that do not reveal a lesion of bovine tuberculosis upon postmortem inspection. Any animal with skin lesions alone shall be considered a NGL animal.

"Official in charge" means any manager, superintendent, secretary, or other person responsible for an exhibition.

"Official tuberculin test" means a test for tuberculosis conducted and reported by approved personnel in accordance with this Subchapter and the USDA Uniform Methods and Rules for bovine tuberculosis eradication. The official tuberculin tests are the caudal fold test, the comparative cervical test, the single cervical test, gamma interferon test, or any other test that is approved by the United States Department of Agriculture (USDA).

"Permit" means a VS 127 issued by an authorized agent of the State Board of Agriculture, a representative of USDA APHIS Veterinary Services or an accredited veterinarian that is required to accompany any reactor, suspect, or exposed animals to slaughter.

"Reactor" means any animal that may be classified as a reactor by the designated epidemiologist based on supplemental diagnostic tests results from approved laboratories or other information.

"Rodeo bulls" means sexually intact male cattle kept for the purposes of performances at rodeos, bucking events, exhibition purposes, or for breeding to produce rodeo bulls.

"Suspect" means any cattle, bison, or goats that show a response to the caudal fold tuberculin test and are not classified as reactors, and cattle, bison, or goats that are classified suspects by a comparative cervical test.

"Tuberculin" means a product that is approved by and produced under USDA license for injection into cattle, bison, or goats for the purpose of detecting bovine tuberculosis.

35:15-40-49.2. Mexican and rodeo or event cattle intrastate regulations

(a) Mexican origin steers, spayed heifers, and any commingled cattle shall not be diverted from or separated from the main group within the stocker, feeder, slaughter channel.

- (b) Mexican origin steers and spayed heifers shall not be commingled with any cattle other than stocker, feeder, slaughter cattle. Any commingled cattle assume the same status as the Mexican cattle.
- (c) Mexican stocker, feeder, slaughter steers, and spayed heifers which are separated from their imported group shall:
- (1) Be accompanied by evidence of a negative tuberculosis test no more than sixty (60) days prior to change of ownership;
 - (2) Be quarantined and tested for tuberculosis within seven (7) days after the change of ownership date;
 - (3) Be consigned to an approved feedlot; or
 - (4) Be tagged for slaughter only and transported directly to a slaughter facility or to an approved feedlot.
- (d) Mexican origin steers, ~~and~~ spayed heifers, and ~~U.S. origin Corriente~~ non-Mexican cattle utilized as rodeo stock moving within the state shall meet the following requirements:
- (1) Be accompanied by a negative tuberculosis test performed by an accredited veterinarian within the previous 365 days;
 - (2) Be identified with an official identification; and
 - (3) There is no change of ownership since the date of the last official test.
- (e) The official in charge of an event shall be responsible for verifying that all Mexican origin cattle utilized as rodeo stock entering any exhibition meet all testing requirements.
- (1) The official in charge of an event shall not be held responsible for recording or accepting falsified or erroneous information provided by an owner.
 - (2) Any person providing erroneous or fictitious information shall be in violation of these rules.
- (f) Any official in charge of an event who knowingly, negligently, or willfully allows an untested or positive animal to enter an exhibition shall be in violation of these rules and the official in charge and the owner of the positive or untested animal shall be equally and individually in violation of these rules.
- (g) For the purposes of this section and OAC 35:15-40-49.3, "stocker, feeder, slaughter" means the steps of beef production in which cattle are grazed, finished at an approved feedlot, and sent to a slaughter establishment.

SUBCHAPTER 44. FARMED CERVIDAE

35:15-44-19. Entry and export requirements

- (a) Import of ~~cervidae~~ Cervidae shall be accompanied by a Certificate of Veterinary Inspection and a Cervidae Import Permit approved or provided by the Department. A Cervidae Import Permit shall be valid for thirty (30) days from approval.
- (b) Cervidae susceptible to chronic wasting disease shall only be imported to a premises with a current license.
- (c) Cervidae shall have two forms of identification. One (1) of these two (2) forms of identification shall be official identification.
- (d) The State Veterinarian or designee may require a brucellosis test of any ~~cervidae~~ Cervidae subject to the provisions of this subchapter.
- (e) All ~~cervidae~~ Cervidae shall meet the tuberculosis testing provisions found at 9 CFR Part 77 (2021 Revision).

- (f) All ~~eervidae~~ 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~~ that is more than twenty-five (25) miles from the nearest case of confirmed chronic wasting disease has been confirmed in native ~~eervidae~~ Cervidae populations.
- (g) For the purposes of this section, all ~~eervidae~~ 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 eervidae~~ Cervidae susceptible to chronic wasting disease.

SUBCHAPTER 47. CHRONIC WASTING DISEASE (CWD) IN CERVIDS

PART 3. HERD CERTIFICATION STANDARDS

35:15-47-6. Minimum requirements for herd certification

- (a) Regulations of the United States Department of Agriculture concerning the control of CWD found at 9 CFR Part 55 (2017 Revision) are adopted by reference.
- (b) The Board shall issue a quarantine on any herd that contained a CWD positive cervid. The quarantined herd shall not participate in the herd certification program until all herd plan requirements are completed.
- (c) All deaths of cervids twelve (12) months of age or older, regardless of cause of death, shall have the obex and medial retropharyngeal lymph nodes sampled and submitted to an approved laboratory by a certified CWD sample collector. CWD sample collectors shall submit written test results to the Department within seven (7) days after receiving said test results from the laboratory.
- (d) If eligible animal deaths are not tested due to a missed sample, improper sample, or untestable sample, an additional live animal over twelve (12) months of age shall be sacrificed for sampling, status shall be suspended, status decreased, or combination thereof. Status may be maintained by:
- (1) An additional live animal over twelve (12) months of age may be sacrificed for sampling; or
 - (2) Antemortem tests as described in USDA's CWD Program Standards may be conducted.
- (e) Freezing animal heads or other acts that delay or inhibit quality sampling and testing may result in the suspension, decrease, or loss of CWD status.
- (f) The State Veterinarian may relax the minimum requirements for herd certification for extraordinary circumstances.
- (g) Herd owners shall report any animals displaying clinical signs of CWD, which may include but are not limited to, weight loss, behavioral changes, excessive salivation, increased drinking and urination, and depression.
- (h) Herd owners shall complete an annual herd inventory with an approved veterinarian during the dates assigned by the Department.

SUBCHAPTER 49. MISCELLANEOUS ANIMAL DISEASES

35:15-49-1. Definitions

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

"Exotic Swine" means swine of the family Suidae, not including swine in the genus sus.

"Malignant catarrhal fever" means alcelaphine herpesvirus-1 (AHV-1), carried asymptotomatically by wildebeest.

"Movement" or **"move"** means any transfer of wildebeest from one location to another, and shall include interstate transfer, intrastate transfer, and export.

"Wildebeest" means the animals known as genus Connochaetes, ~~taurus~~ including both blue and black wildebeest.

35:15-49-6. Exotic swine

(a) No person shall import or possess exotic swine.

(b) The State Veterinarian may grant exceptions for importation and possession by a zoo accredited by the Association of Zoos and Aquariums.

35:15-49-7. Equine herpes virus

(a) The State Veterinarian or any state or federal veterinarian acting under authority of the State Veterinarian may cause an official test to be conducted on any Equidae known or suspected to be infected with or exposed to Equine Herpes Virus.

(b) If the owner refuses or neglects to comply with the testing requirements, the Equidae shall be quarantined and the movement of any Equidae from the premises shall be prohibited.

(c) Cases and outbreaks shall be managed according to the Equine Herpes Virus Myeloencephalopathy Incident Guidelines for State Animal Health Officials (January 2018 Revision).

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 adds requirements for exportation of animals; relocates Equine Piroplasmosis from part 13 of subchapter 11 to subchapter 18; requires that a routine livestock auction receive special permission to do auctions on a Sunday; expands tuberculosis tests to all cattle after livestock auctions; removes the definition of direct shipment to slaughter and quarantined holding facility; adds a definition for official test record; expands the EIA test chart to those approved by the USDA; removes the \$50.00 fee for the Board to administer additional proficiency tests for EIA laboratories; requires EIA retests to be submitted to the National Veterinary Services Laboratory or an approved laboratory instead of ODAFF Laboratory Services; removes the waiver of quarantine; removes the number of days required for release of quarantine for Equidae; adds release of quarantine requirements for exposed, contact or adjacent herds; revokes the requirements for quarantined holding facilities; adds language that the test accession number must be included in change of ownership of Equidae and that the documents must be legible; revokes the intrastate movement language; removes language that ear tags for bovine and bison have the state prefix, letters and numbers; expands the definition of poultry; incorporates by reference Title 9 of the Code of Federal Regulations, Sections 145-147; defines premium sale for swine pseudorabies; adds dates and timeframes for swine exhibition events; updates the definitions for bovine trichomoniasis; defines events for roping cattle; expands cattle intrastate regulations to apply to rodeos or events; adds language for maintaining sherd certification if animal deaths are not tested; incorporates by reference the 2018 Equine Herpes Virus Myeloencephalopathy Incident Guidelines.

(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.

(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.

- (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 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 14, 2023.

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

CHAPTER 17. WATER QUALITY

SUBCHAPTER 5. REGISTERED POULTRY FEEDING OPERATIONS

35:17-5-1. Purpose

These rules shall serve to control nonpoint source runoff and discharges from poultry waste application of poultry feeding operations. The rules allow for the monitoring of poultry waste application to land or removal from these operations and assist in ensuring beneficial use of poultry waste while preventing adverse effects to the waters of the state of Oklahoma. These rules are promulgated pursuant to and are read in conjunction with the Oklahoma Registered Poultry Feeding Operations Act found at Section 10-9.1 et seq. at Title 2 of the Oklahoma Statutes. The provisions of the Oklahoma Registered Poultry Feeding Operations Act are incorporated by reference.

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~~ renew the registration annually by January 1 to operate.
- (3) Any poultry feeding operation that has a valid license pursuant to the Oklahoma Concentrated Animal Feeding Operations Act shall not be required to register pursuant to the Oklahoma Registered Poultry Feeding Operations Act.
- (4) The owner or operator of a poultry feeding operation not classified as a poultry feeding operation may register if the owner elects to come under the provisions of the Oklahoma Registered Poultry Feeding Operations Act and the rules of the State Board of Agriculture.

(b) Nutrient Management Plan.

- (1) Every poultry feeding operation shall obtain or apply for an approved NMP addressing both nitrogen and phosphorus.
- (2) All new operators of poultry feeding operations shall obtain or apply for a NMP prior to construction of the facility. The NMP shall be completed and implemented within one year of application.
- (3) The NMP shall be prepared by USDA NRCS or an entity approved by the Oklahoma Department of Agriculture, Food, and Forestry.
- (4) Plans shall be reviewed and updated at least every six (6) years from the date the NMP was obtained. Plans shall also be reviewed and updated in the following circumstances:
 - (A) When the Oklahoma Department of Agriculture, Food, and Forestry changes the waste utilization standards or
 - (B) Upon notification of the Oklahoma Department of Agriculture, Food, and Forestry.
- (5) The NMP shall be updated prior to the expansion of a facility.
- (6) Implementation of the NMP shall occur within ninety (90) days of receipt of the NMP unless otherwise determined by the Oklahoma Department of Agriculture, Food, and

Forestry. In no event shall the poultry feeding operation land apply poultry waste in excess of the standards contained in Appendix A.

(c) Transfer.

(1) Owners intending to sell a registered poultry feeding operation shall notify the Department at least ten (10) days prior to the final sale.

(2) Owners selling the registered poultry feeding operation shall submit a final annual report for the current fiscal year within thirty (30) days following the final sale.

(3) New owners purchasing a registered poultry feeding operation shall have thirty (30) days to submit a transfer application on a form prescribed by the Department along with the Ten (10) Dollar nonrefundable application fee.

35:17-5-3.1. Setbacks for new or expanding construction of poultry barns

(a) New or expanding poultry feeding operations, including, but not limited to, poultry barns, composters and other carcass disposal areas, litter sheds, and other buildings associated with the operation, but not to include land application sites, shall not be located within the following applicable distances:

(1) Occupied residence:

(A) Fewer than, and including, one hundred and fifty thousand (150,000) birds shall be five hundred (500) feet; and

(B) More than one hundred and fifty thousand (150,000) birds shall be one thousand (1,000) feet.

(C) The distance between an occupied residence and a poultry waste facility shall be measured from the closest corner of the wall of the occupied residence to the closest point of the poultry waste facility;

(2) Public school shall be one thousand five hundred (1,500) feet;

(3) Incorporated city limits shall be one thousand five hundred (1,500) feet;

(4) Public roadway shall be one hundred and fifty (150) feet and such measurement shall be taken from the center line of the public road;

(5) Property line shall be one hundred and fifty (150) feet;

(6) Perennial or intermittent stream as identified on a current USGS 7.5 minute topographic map shall be two hundred (200) feet;

(7) Private well not owned or used for the poultry feeding operation shall be one hundred (100) feet; and

(8) Public well shall be five hundred (500) feet.

(b) The setbacks contained in subsections (a)(1), (2), ~~and (3)~~, and (5) of this section shall not apply if the applicable property owner, city governing body, or school district executes a written waiver with the owner or operator of the poultry feeding operation, under the terms and conditions that the parties negotiate. The written waiver becomes effective upon recording of the waiver in the offices of the recorder of deeds in the county where the property is located. The filed waiver shall preclude enforcement of the setback requirements contained in subsections (a)(1), (2), ~~and (3)~~, and (5) of this section. A change in ownership of the applicable property or change in the ownership of the property on which the poultry feeding operation is located shall not affect the validity of the waiver.

(c) As a part of the application for a new or expanding poultry feeding operation, the applicant shall provide the following in a detailed scaled map:

(1) Location of the poultry barns, composters and other carcass disposal areas, litter sheds, and other buildings associated with the operation; and

(2) Identification of all locations listed in subsection (a) within one ~~(1) mile~~ thousand (1,000) feet of the facility.

(d) Prior to approval of any application for a new or expanding poultry feeding operation, the Department shall conduct a presite inspection and review and confirm compliance with all setback requirements contained in this section.

(e) Any proposed poultry feeding operation that completed a bank closing on or before October 8, 2018, for the purpose of constructing a poultry feeding operation which has been affected by the State Board of Agriculture October 8, 2018, "Suspension on Acceptance and Processing of Applications for New or Expanding Poultry Operations" shall not be subject to the requirements contained in this section.

(f) An application to register a poultry feeding operation shall be considered filed on the date the Department receives the registration and applicable fees.

35:17-5-3.2. Cancellation of poultry feeding operation registration

(a) A request to cancel registration of a poultry feeding operation shall be in writing and include a final annual report for the current fiscal year.

(b) Poultry waste shall be ~~property~~ properly removed from all poultry waste management systems prior to request for cancellation of a poultry feeding operation registration.

35:17-5-4. Soil and litter tests required

(a) All soil and poultry waste analysis data shall be dated prior to land application.

(b) Poultry waste shall be applied only by ~~a~~ an Oklahoma certified poultry waste applicator.

35:17-5-5. Nutrient Management Plan

(a) The NMP shall comply with all requirements contained in Appendix B and shall contain, at a minimum, the following:

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

(2) The calculations and assumptions used for determining land application rates.

(3) All nutrient analysis data, including soil and poultry waste testing.

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

(5) Soils map with description and type or series.

(6) Land application rates of poultry waste shall be based on the available nitrogen and phosphorus content of the poultry waste and soil test results.

(7) The procedures documented in the NMP shall ensure that the handling and utilization of poultry waste complies with the following requirements:

(A) Adequate poultry waste storage shall be provided. Poultry waste shall not be stored without adequate protection from rainfall and runoff. All new poultry feeding operations shall make provisions for storage of poultry waste prior to operating. Exceptions to storage requirements for poultry waste in emergency situations shall be granted on a case by case basis. Exceptions shall include but not be limited to allowing a contract poultry grower to take such actions as are necessary to meet requirements imposed on a grower by an integrator. However, in all situations growers shall be required to take all actions feasible to prevent pollution from stored poultry waste.

(B) Poultry waste shall not be applied to land when the ground is saturated or during rainfall events. Poultry waste shall not be applied to land when the ground is frozen or snow covered except in conformance with the NMP.

(C) Poultry waste shall only be applied to suitable land at appropriate times and rates as specified by the NMP. Runoff of poultry waste from the application site is prohibited.

- (D) All practices necessary to minimize movement of poultry waste to watercourses shall be utilized and documented in the NMP.
- (E) Edge of field, grassed strips shall separate water courses from runoff which may be carrying eroded soil and poultry waste.
- (F) Poultry waste application shall be prohibited on land subject to excessive erosion.
- (G) Land application rates of poultry waste shall provide controls for runoff as appropriate for site conditions.
- (H) Poultry waste shall only be applied by a certified poultry waste applicator.
- (b) The NMP shall also include a method for the disposal of carcasses. The NMP shall include provisions for disposal of carcasses associated with normal mortality and shall include provisions for emergency disposal when a major disease outbreak or other emergency results in deaths significantly higher than normal mortality rates. Accepted methods of carcass disposal include:
 - (1) Rendering
 - (A) Disposal of all carcasses shall occur within a reasonable period of time as approved by the State Department of Agriculture.
 - (B) Storage facilities shall be sealed or have lids and maintained so as to prevent pests and odors.
 - (2) Burial shall only be ~~allowed~~ approved by the Department as a method of emergency carcass disposal if no reasonable alternative exists and specific measures and practices are identified which will be utilized to protect the ground and surface waters of the State.
 - (3) Composting by methods as approved in the NMP.
 - (4) Incineration shall only be used as a method of carcass disposal if the poultry feeding operation has a valid air quality permit from the Oklahoma Department of Environmental Quality, Air Quality Division, if required.
 - (5) Alternative methods submitted to and approved by the Department on a case by case basis.
- (c) Storage and land application of poultry waste shall not cause a discharge or runoff of significant pollutants to waters of the State or cause a water quality violation to waters of the State.
- (d) The operator shall notify the State Department of Agriculture within twenty-four (24) hours of a discharge.

35:17-5-7. Record keeping

- (a) ~~The following records~~ Annual reports regarding all poultry waste removed from or land applied by the facility shall be maintained for a minimum of six (6) years ~~and shall be available at all times to the State Department of Agriculture:~~
 - ~~(1) Poultry waste application records, rates, and dates of application.~~
 - ~~(2) If the poultry waste is sold or given to other persons, the poultry feeding operation shall maintain a log of:~~
 - ~~(A) Date of removal from the poultry feeding operation.~~
 - ~~(B) Name of recipient the poultry waste is sold or given to.~~
 - ~~(C) Amount in wet tons, dry tons, or cubic yards of poultry waste removed from the poultry feeding operation.~~
 - ~~(D) Poultry feeding operations located in a nutrient limited watershed or nutrient vulnerable groundwaters as defined by the Oklahoma Water Resources Board shall make available to the recipient any nutrient sample analysis from that year. Poultry feeding operations located in non-nutrient limited watersheds or non-~~

~~nutrient vulnerable groundwaters shall make available to the recipient the most recent nutrient sample analysis.~~

(b) Education certifications shall be maintained for a period of five (5) years and shall be available at all times to the State Department of Agriculture.

(c) Soil and poultry waste analysis data shall be retained by the poultry feeding operation for no less than six (6) years.

SUBCHAPTER 9. AGRICULTURAL COMPOST FACILITIES

35:17-9-2. Definitions

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

"Animal waste" means animal excrement, animal carcasses, feed wastes, process wastewaters or any other waste associated with the confinement of animals from an animal feeding operation.

"Compost facility" or "facility" means a facility where source material is converted, under thermophilic conditions, to a product with high humus content for use as a soil amendment or to prevent or remediate pollutants in soil, air, and storm water run off. This includes

~~"Facility"~~ means all contiguous land and structures, other appurtenances, and improvements on the land used for the handling, processing, storage, or disposal of compost and source materials or ingredients used in producing compost.

"Leachate" means liquid that has passed through or emerged from animal waste or materials being composted, and may contain soluble, suspended, or mixable materials removed from the source material.

"Operator" means the owner and person responsible for the management of ~~each~~ the facility.

"Source material" means material used as the main organic source to be converted by ~~the process~~ thermophilic conditions into compost and may include but not be limited to manure and other animal waste.

35:17-9-3. Permit provisions and application

(a) Prior to operation, any person using any source materials within the Department's jurisdictional areas of environmental responsibility to produce compost shall obtain a permit to operate the facility from the Department.

(b) The permit shall be renewed every five (5) years on October 1.

(c) The application for a compost facility shall contain, as a minimum, the following information:

(1) Name, address, ~~and~~ telephone number, and email address of the owner;

(2) Name, address, and county of the facility, including ~~specific driving directions from the nearest municipality, and legal description of the facility to the nearest ten (10) acres~~ the Global Positioning System (GPS) coordinates to the entry of the facility;

(3) Name, address, and telephone number of the operator, if other than the owner;

(4) ~~Narrative describing~~ A description of the proposed compost facility purpose of the facility.

(5) A composting plan that shall include but not be limited to the following:

(A) Source materials proposed for use and the estimated amount of compost produced per ~~month or per~~ year;

(B) Proposed type of composting process or processes to be used at the facility, including which may include windrow, static pile, or in vessel composting method;

(C) Characterization of the physical and environmental setup of the facility, including but not limited to the following:

- (i) Description of topography using a current 7.5 minutes topographic map highlighting the location of waters of the state within three (3) miles of the facility, an outline of the watershed drainage area with arrows indicating general direction of surface water drainage from the facility;
- (ii) Soil map showing soil types at the facility; and
- (iii) 100-year flood plain map.

(D) Laboratory test reports showing the amount of nitrogen as nitrate and total phosphorus contained in waters of the state at the facility, including but not limited to groundwater from all existing wells and surface impoundments located on the site.

(E) Design drawings and specifications for:

- (i) receiving, processing, storage, disposal, or reuse areas;
- (ii) leachate collection systems;
- (iii) storage, treatment, and disposal of leachate and sludge;
- (iv) storm water drainage;
- (v) protection of groundwater from leachate;
- (vi) any other design drawings and specifications necessary to describe the proposed operations of the facility.

(F) Proposed operational parameters.

(G) Site layout and construction.

(H) Best management practices used at the site for erosion control, water pollution control, odor control, storage of the source materials, storage of the finished compost, and aesthetic enhancement. Best management practices shall be utilized to ensure environmental hazards are avoided and operations do not create nuisance conditions, including blowing of dust or waste, odor, pest, or attraction of vermin creating public health concerns or erosion.

(I) A notarized sworn statement signed by the owner accepting full responsibility for properly closing the facility upon termination of operation at the facility.

(J) A notarized certification signed by the person applying for the permit, stating: "I certify under penalty of law this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for knowingly submitting false, inaccurate, or incomplete information, including the possibility of fines for each violation."

(K) Supporting documentation regarding composting method used, including compost mix design, selection of C:N ratio, determining bulking agent need, aeration method, and moisture content and temperature to be maintained.

(L) All other documentation deemed necessary and requested by the Department to assure the quality of waters of the state is not compromised, and any other information required by the Department directly related to the construction, installation and operation of the facility.

- (d) The application for a new facility or a renewal shall be accompanied by an application fee of Two Hundred Dollars (\$200.00).
- (e) The operator of a facility shall notify the Department in writing that the facility is no longer in operation within thirty (30) days of the cessation of operation.
- (f) The Department shall require closure of any facility under the following circumstances:
 - (1) The operator of the facility notifies the Department that the facility is no longer in operation.
 - (2) The facility has not accepted source material nor produced compost for a period of six (6) months.
 - (3) The facility is ordered to close by the Board due to failure to operate in compliance with any provision of the Agriculture Code or rules of the Board.
- (g) A compost permit shall not be transferred.
 - (1) Upon sale of a compost facility, the new owner shall submit a new application and fee within thirty (30) days of the final sale.
 - (2) The former owner shall provide written notice of sale at least ten (10) days prior to finalization of the sale along with a written statement identifying plans to close or transfer the total retention storage structure.
 - (3) If the new owner agrees to take over responsibility of the total retention storage structure, as outlined in OAC 17-9-9(d), a signed, notarized agreement by both parties shall be submitted to the Department prior to the sale.

35:17-9-4. Siting of composting facility

- (a) The following factors shall be considered in the selection of a site for the facility:
 - (1) Prevailing wind direction and proximity to occupied residences;
 - (2) Topography of the facility location, including avoiding locating the facility on steep slopes ~~or within the 100-year flood plain~~; or
 - (3) Ground and surface water protection.
- (b) The Department may conduct a presite inspection of the proposed facility prior to issuing any permit for operation.
- (c) The compost facility shall not be located within three hundred (300) feet of a public or private drinking water well.
- (d) The compost facility shall not be located within the 100-year flood plain.
- (e) The composting and storage areas shall not be located with fifty (50) feet of the property boundaries.
- (f) The compost facility shall not be located within 100 feet of a downgradient perennial stream as defined on a current 7.5 minute topographic map.
- (g) The compost facility shall not be located with fifty (50) feet of a downgradient intermittent stream as defined on a current 7.5 minute topographic map.

35:17-9-6. Leachate and storm water control

- (a) The owner or operator shall provide a total retention storage structure or vegetative filter that is of sufficient size to contain or filter all leachate and contaminated storm water, ~~the 100-year/24 hour storm event, and maintain one foot of free board.~~
- (b) If a total retention storage structure is required by the Department, the owner shall ensure:
 - (1) The waste retention structure shall have the volume to store runoff from a 100 year/24 hour storm event.
 - (2) One foot of freeboard is maintained, and

~~(3) The owner or operator shall construct a~~ A permanent marker that identifies the levels of the 100 year/24 hour storm event volume, the one foot of free board, and the bottom of spillway is constructed.

(c) The owner or operator shall provide a drainage system for storm water that prevents erosion at the facility.

(d) The owner or operator shall prevent contact between uncontaminated storm water and source material, composting amendment, composting mix, and final product isolating the material from surface drainage through the use of covers, ditches, dikes, berms, terraces, or other control structures.

35:17-9-9. Closure of licensed compost facility retention structures

(a) The owner of a ~~leachate retention structure facility~~ facility shall notify the Department ~~if the owner intends at least thirty (30) days in advance in writing if they intend~~ to permanently cease operations of the ~~structure facility~~ facility for any reason, including but not limited to, compliance with orders of the Board of Agriculture.

(b) A ~~leachate retention structure facility~~ facility that temporarily ceases operations ~~for longer than six (6) months but otherwise remains in full compliance with its license these rules shall not be considered permanently closed if written notice is provided to the Department prior to six (6) months of ceasing operations.~~

~~(b) Closure requirements of leachate retention structures shall be based on site specific conditions, as follows:~~

~~(1) The owner shall notify the Department in writing whenever a leachate retention structure is abandoned or permanently ceases operations for any reason. The Department shall consider a leachate retention structure is abandoned or has permanently ceased operations if:~~

~~(A) The leachate retention structure is closed by order of the Department; or~~

~~(B) The owner is unable to furnish documents showing receipt of compost material into the leachate retention structure during the previous twenty four (24) months and the owner is not maintaining the retention structure in compliance with the applicable rules or plans approved by the Department.~~

~~(c) In the event of permanently ceasing operations or abandonment of the facility, the owner shall still be responsible for closure of any waste retention structure by ensuring the following:~~

~~(2)(1) Liquid contents of a leachate total retention storage structure may shall be pumped out and land applied according to Department rules requirements.~~

~~(3)(2) Solids from the leachate total retention storage structure shall be removed and disposed of in an environmentally safe manner.~~

~~(4)(3) Sludge from the bottom of the leachate total retention storage structure shall be removed without compromising the integrity of the liner. Sludge may be land applied according to Department rules requirements.~~

~~(5)(4) The owner shall grid sample soil from the bottom of the leachate retention structure and have the samples analyzed in a State certified laboratory for nitrate-nitrogen, total phosphorous, and electrical conductance.~~

~~(6)(5) The owner shall develop a plan, subject to Department approval, regarding soil removal, if necessary, based on the grid sample data.~~

~~(7)(6) If soil is to be removed from the bottom of the leachate total retention storage structure, it shall be managed in an environmentally safe manner approved by the Department. Management options may include, but are not limited to, land application, disposal, and reuse.~~

~~(8)(7)~~ ~~The Department may require monitoring wells if~~ If evidence indicates that contamination has migrated to the groundwater based on site specific conditions, monitoring wells shall be installed as required by the Department.

~~(9)(8)~~ In the event a total retention storage structure requires closure or replacement in other than a permanently ceasing operations event, written notice shall be submitted to the Department prior to closure and shall follow the requirements of this section.

(d) An owner may seek an exemption from the closure obligations of this subsection or transfer the responsibility for a ~~leachate waste~~ total retention storage structure to another party. A written request and approval by the Department are required for an owner to be exempt from closure obligations of this subsection or to transfer the responsibility for a ~~leachate waste~~ total retention storage structure to any other party.

RULE IMPACT STATEMENT

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 17. WATER QUALITY

(A) **PURPOSE OF THE PROPOSED RULE:**

The proposed rule amendments updates language on registration renewal and adds language on transferring a registered poultry operation; adds an additional waiver that applies to the property line setback and reduces; modifies the distance of setbacks detailed on a called map from one mile to a thousand feet; corrects misspelled words; adds additional language that requires poultry waste to be applied by an Oklahoma certified applicator; adds language for alternative methods for disposal of carcasses; removes certain requirements from record keeping; combine the definition of compost facility and facility; modifies the definition of source material to include thermophilic conditions; adds additional requirements to the application for a compost facility; adds requirements for transferring permits for compost facilities; modify requirements for siting of composting facilities in relation to flood plains, property boundaries, and streams; and adds additional requirements for closures of licensed compost facilities.

(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 and compost operations.

(C) **PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULE:**

The proposed rules will benefit owners and operators of poultry feeding operations and compost operations.

(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 transferring registrations and reducing record keeping requirements. Compost owners will benefit from the additional rules on closing a composting operation and the site of a composting operation.

(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 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:**

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 14, 2023.

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

CHAPTER 20. FORESTRY

**SUBCHAPTER 3. RURAL FIRE PROTECTION PROGRAM FUND ACT
PART 5. MATCHING GRANT PROGRAM**

35:20-3-22. Matching grant limitations

(a) The maximum state share of projects funded under the matching grant programs shall be as follows:

(1) The eighty percent (80%) state share for fire-related equipment shall not exceed ~~twenty~~ thirty-five thousand dollars (~~\$20,000~~) (\$35,000).

(2) The eighty percent (80%) state share for fire station construction or improvements shall not exceed ~~thirty~~ seventy-five thousand dollars (~~\$30,000~~) (\$75,000).

(b) Applicants for state matching grant program funds may not apply for both an equipment grant and a fire station grant in the same funding period.

(c) State matching grant program funds may be expended for the purchase or maintenance of fire related equipment and the construction or improvement of structures suitable for fire stations. Applicants shall certify on the application form that the conditions in this section are met when applying for grants for facilities.

(1) No matching grant program funds may be expended or obligated for the purchase of land or construction of fire stations unless all obligations previously incurred for such purposes and to be paid from matching grant program funds have been fully paid and satisfied.

(2) No matching grant program funds shall be expended or obligated for the construction of fire stations unless the eligible participant holds fee simple title, not encumbered by any lien, or holds a lease for a period of not less than ten (10) years, with provisions for renewal of the lease annually, to the land on which it proposes to construct the building. This provision shall not prohibit construction or location of a fire station on land donated in whole or in part for the purpose, and use of matching grant program funds for construction where the donor has reserved right of reversion of such land under stated conditions, if such use is reasonable and appropriate as determined by the Department and the Rural Fire Coordinators.

(3) Matching grant program funds shall be expended under the direction of the chief of the fire department upon duly executed vouchers approved as required by law.

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 an increase to the maximum dollar amount for the state's share of projects funded under the Matching Grant Program.
- (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 rural fire departments receiving funds from the Department through the Rural Fire Protection Matching Grant Program. No cost impacts have been received to date.
- (C) **PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULE:**
The Department's Rural Fire Protection Program will benefit from the proposed rules. Taxpayers will benefit from the proposed rules as the rule increases the maximum share of projects funded.
- (D) **DESCRIPTION OF THE PROBABLE IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS:**
Rural fire departments that participate in the Department's Matching Grant 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.
- (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 6, 2023.

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

CHAPTER 30. CONSUMER PROTECTION

SUBCHAPTER 4. THOUSAND CANKERS DISEASE

35:30-4-1. Establishment of quarantine

The State Board of Agriculture does hereby establish a quarantine for thousand cankers disease of walnut exterior.

35:30-4-2. Regulated area

Regulated articles from the entire states of Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, and any other state or foreign country known to be infested with thousand cankers disease of walnut exterior shall be quarantined.

35:30-4-3. Regulated articles

The following shall be regulated pursuant to this quarantine:

- (1) All plant and plant parts of the genus *Juglans* including but not limited to nursery stock, budwood, scionwood, green lumber, and other living, dead, cut, or fallen, including logs, boards, firewood, stumps, burls, roots, branches, bark, mulch, chips, and lumber for wood packing material;
- (2) All life states of the walnut twig beetle (*Pityophthorus juglandis*); and
- (3) The fungal pathogen *Geosmithia morbida* sp. nov.

35:30-4-4. Conditions governing movement

- (a) All regulated articles originating from quarantined areas are prohibited entry into or transition through the State of Oklahoma unless accompanied by a phytosanitary certificate from the state of origin declaring, 'The article was officially inspected after harvest and found free of the fungus *Geosmithia*, the walnut twig beetle, and bark, and the articles were stored in such a manner to remain free of the walnut twig beetle in storage and transit.'
- (b) Regulated articles originating in an area not known to have thousand cankers disease but in transit through an area known to have thousand cankers disease shall be regulated articles.
- (c) Regulated articles to be used for research purposes may move pursuant to a compliance agreement with the Oklahoma Department of Agriculture, Food, and Forestry.

35:30-4-5. Movement for scientific purposes

Interstate and intrastate movement of regulated articles and all living stages of the walnut twig beetle (*Pityophthorus juglandis*) and the thousand canker disease fungal pathogen, *Geosmithia morbida* sp. nov., for scientific or experimental purposes may move under a compliance agreement and scientific permit.

SUBCHAPTER 6. EMERALD ASH BORER QUARANTINE

35:30-6-1. Establishment of quarantine

The State Board of Agriculture does hereby establish a quarantine for emerald ash borer, *Agrilus planipennis*.

~~35:30-6-2. Regulated area~~

~~Regulated articles from Delaware County, Oklahoma, and any other counties, states or foreign country known to be infested with emerald ash borer shall be quarantined.~~

~~35:30-6-3. Regulated articles~~

~~The following shall be regulated pursuant to this quarantine:~~

- ~~(1) Emerald ash borer, *Agrilus planipennis*;~~
- ~~(2) Firewood of all hardwood (non-coniferous) tree species;~~
- ~~(3) Nursery stock, green lumber, and other living, dead, cut, or fallen material, including logs, stumps, roots, branches, mulch, and both composted and uncomposted chips of the genus *Fraxinus* (ash); and~~
- ~~(4) Any other article, product, or means of conveyance not listed in this section may be designated as a regulated if determined by the Oklahoma Department of Agriculture, Food, and Forestry to present a risk of spreading emerald ash borer.~~

~~35:30-6-4. Conditions governing movement~~

- ~~(a) All regulated articles originating from quarantined areas shall be prohibited entry to any destination outside the quarantined area.~~
- ~~(b) Regulated articles originating in an area not known to have emerald ash borer but transiting through an area known to have emerald ash borer shall be considered to be regulated articles. The point of origin shall be indicated on shipping documents and accompanied by a certificate of inspection for this pest.~~

~~35:30-6-5. Movement for scientific purposes~~

~~Interstate and intrastate movement of regulated articles and all living stages of the emerald ash borer, *Agrilus planipennis*, for scientific or experimental purposes shall only move under a compliance agreement and scientific permit.~~

SUBCHAPTER 13. IMPORTED FIRE ANT QUARANTINE

35:30-13-3. Regulated area

Imported Fire Ant regulated areas are the Oklahoma counties of:

- (1) Bryan Jefferson, and McCurtain (1986);
- (2) Marshall (Additional Infested Area 1987);
- (3) Carter, Choctaw, Comanche, Johnston, and Love;
- (4) LeFlore, Pushmataha, Atoka, Coal, Pontotoc, Garvin, Murray, Stephens, Jefferson, Cotton, Tillman, and Jackson;
- (5) Latimer (2017); and
- (6) Pittsburgh (2020); and
- (7) Haskell (2024).

SUBCHAPTER 17. COMBINED PESTICIDE

PART 1. COMMERCIAL, ~~AND NON-COMMERCIAL~~, AND PRIVATE CATEGORIES OF PESTICIDE APPLICATION

35:30-17-1. License and Certification Categories

License and certification categories of pesticide application shall comply with the category specific competency standards of 40 CFR 171.103(d) and 40 CFR 171.105(a) as referenced in sections 6 and 7 of the state certification and training plan and are as follows:

- (1) 1a: Agricultural Plant Category - Includes the application of pesticides to agricultural crops, agricultural grassland, and noncrop agricultural land. This category does not include the production of trees for any purpose.
- (2) 1b: Agricultural Animal Category - Includes the application of pesticides to animals, including those in feedlots, sales barns, egg production facilities and the animal holding facilities. This excludes Doctors of Veterinary Medicine applying pesticides as drugs or medication during the course of their normal practice.
- (3) 2: Forest Pest Control Category - Includes the application of pesticides in forest nurseries, forest seed production areas, trees grown for the production of forestry products, and other forest areas.
- (4) 3a: Ornamental and Turf Outdoor Pest Control Category - Includes the application of pesticides within residential or business areas to lawns, ornamental trees and shrubs, including park areas, golf courses, and other recreational areas, except as defined under licensed categories 2, 3b-c, 7, and 8.
- (5) 3b: Intiorscape Category - Includes the application of pesticides to interior plantings inside structures (i.e. hospitals, buildings, shopping malls, etc.) excluding residential structures with the exception of common use areas of multiple residential structures (i.e. foyers, atriums, indoor swimming pools, management offices, meeting rooms, etc.) except as defined under licensed categories 3c, 7, and 8.
- (6) 3c: Nursery/Greenhouse Category - Includes the application of pesticides in nursery and greenhouse facilities and to fields except as defined under licensed categories 2 (Forest Pest Control).
- (7) 4: Seed Treatment Category - Includes the application of pesticides to seed for any purpose.
- (8) 5: Aquatic Pest Control Category - Includes the application of pesticides to standing or running water in man-made or natural impoundments, streams, etc. This excludes public health activities (e.g. mosquito control) and water in totally closed systems.
- (9) 6: Right-of-Way Category - Includes the application of pesticides for public road maintenance, power line maintenance, railroad right-of-way, storage tank areas, and other similar areas.
- (10) 7a: General Pest Control Category - Includes the application of pesticides within and immediately adjacent to a structure, except for fumigation activities, control of termites and other wood destroying organisms in or on a structure, and control of birds or predatory animals. "Immediately adjacent to a structure" means not further than three (3) feet from the structure. Applications to restaurants are permitted in this category.
- (11) 7b: Structural Pest Control Category - The application of pesticides for the purpose of controlling termites and other wood destroying organisms in or on a structure, including wood borers and fungus.

- (12) 7c: Fumigation Category - The use of liberated gas within a structure or storage area, to include railcars, ships, etc., or the application of fumigants to soil.
- (13) 8: Public Health Pest Control Category - The application of pesticides by local, state, federal or other governmental employees or commercial pesticide applicators in public health programs, to include municipal and other areawide mosquito control programs.
- (14) 9: Regulatory Pest Control Category - Includes the application of pesticides by state, federal or other government employees for the control of designated regulated pests.
- (15) 10: Demonstration and Research Pest Control Category - Includes persons engaged in the application of pesticides for scientific research or for the purpose of demonstrating pesticide products or methods of application.
- (16) 11a: Bird and Vertebrate Animal Pests Control Category - The application of pesticides for the control of birds or vertebrate animals pests and subject to the rules of the Oklahoma Department of Wildlife Conservation and the Wildlife Services Division of the Board.
- (17) 11b: Predatory Animal Control Category - The application of pesticides for the control of predatory animals and subject to the rules of the Oklahoma Department of Wildlife Conservation, and the Wildlife Services Division of the Board.
- (18) 12a: Pressure Facility Timber Treating Category - Includes the treatment of wood in a pressure treating facility by the impregnation or application of chemical solutions for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood destroying organisms.
- (19) 12b: Ground Line Utility Pole Timber Treating Category - Includes the ground line treatment of utility poles with chemical solutions for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood destroying organisms.
- (20) 12c: Construction Industry Timber Treating Category - Includes the application of chemical solutions to wood members of structure which will be covered by paint, varnish, or similar covering for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood destroying organisms.
- (21) 12d: Home Owner Timber Treating Category - Includes the application of chemical solutions to wood constructions around the home, including decks, for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood destroying organisms.
- (22) 13: Antimicrobial Category - Includes applications of an antimicrobial pesticide intended to disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms or protect inanimate objects, industrial processes or systems, surfaces, water, or other chemical substances from contamination, fouling, or deterioration caused by bacteria, viruses, fungi, protozoa, algae, or slime.
- (23) 14: Specialty Category - Includes any area of pesticide application not defined in Category 1 thru ~~12~~ 13 when the pesticide to be used is classified as restricted.
- (24) 15: Aerial Category - The use of a pesticide applied by aircraft to any crop or site. In addition to certification in this category, certification in one or more of the appropriate use categories is required.
- (25) 16: Private Applicator Category- Any person who uses or supervises the use of any restricted pesticide for purposes of producing any agricultural commodity on property owned or rented by the person, or employer, or on the property of another person if applied without

compensation other than trading of personal services between producers of agricultural commodities.

(a) Private Applicator Fumigation Category - The use of liberated gas within a structure or storage area, to include railcars, ships, etc., or the application of fumigants to soil.

(b) Private Applicator Aerial Category - The use of a pesticide applied by aircraft to any crop or site. In addition to certification in this category, certification in one or more of the appropriate use categories is required.

35:30-17-1.2. Schedule of combined pesticide program fees

(a) The fees for issuance or renewal of pesticide applicators licenses shall be as follows:

(1) Commercial applicator - One Hundred Dollars (\$100.00) per category, Five Hundred Dollars (\$500.00) maximum for each location.

(2) Non-commercial applicator - Fifty Dollars (\$50.00) per category, Two Hundred Fifty Dollars (\$250.00) maximum for each location.

(3) Duplicate issue - Ten Dollars (\$10.00) each.

(4) Private applicator - Twenty Dollars (\$20.00) each.

(5) For licenses that expire on September 30th of each year, failure to remit a commercial or non-commercial applicator license renewal fee by the 1st day of October shall result in a penalty of twice the amount of the license renewal fee, and after the 1st day of November shall also result in an additional One Hundred Dollar (\$100) penalty which shall be paid prior to license renewal.

~~(5)~~ (6) For licenses that expire on December 31st of each year, failure to remit a commercial or non-commercial applicator license renewal fee by the 1st day of January shall result in a penalty of twice the amount of the license renewal fee, and after the 1st day of February shall also result in an additional One Hundred Dollar (\$100) penalty which shall be paid prior to license renewal.

(b) The issuance and annual registration fees for each pesticide and device label shall be as follows:

(1) Pesticide - Two Hundred Ten Dollars (\$210.00) each.

(2) Device - Two Hundred Ten Dollars (\$210.00) each.

(3) Failure to remit the registration fees for pesticides and devices by the 15th of the month following the month of expiration shall result in a penalty of twice the amount of the renewal fee.

(c) The annual permit fee for a restricted use pesticide dealer shall be Fifty Dollars (\$50.00) for each location. Failure to remit the permit fee by the 15th of the month following the month of expiration shall result in a penalty of twice the amount of the renewal fee.

(d) The fee for each written examination or practical conducted for the combined pesticide program shall be as follows:

(1) Written examination - Fifty Dollars (\$50.00).

(2) Practical conducted - Fifty Dollars (\$50.00).

(e) Applicator certification fees shall be as follows:

(1) Re-certification procedure - Fifty Dollars (\$50.00) for each.

(2) Reciprocal certification procedure - One Hundred Dollars (\$100.00) for each.

(f) Identification card fees shall be as follows:

(1) Service technician - Twenty Dollars (\$20.00) each.

- (2) Certified applicator - No charge.
- (3) Duplicate issue or transfers - Ten Dollars (\$10.00) each.
- (g) The annual permit fee for pesticide producing facilities, including facilities that produce pesticidal devices, shall be One Hundred Dollars (\$100.00) for each location.
 - (1) All permits for pesticide producer establishments shall be issued for a period of one (1) year and shall be renewed annually.
 - (2) All permits shall expire on June 30 each year and may be renewed without penalty upon filing of a properly completed application not later than the fifteenth day of the month first following the date of expiration.
 - (3) If the application is not received by that date, a penalty of twice the amount of the renewal fee shall be charged for renewal of the permit.
- (h) All fees and monies collected under this program shall be paid to the Oklahoma Department of Agriculture, Food, and Forestry.

35:30-17-1.3. Commercial pesticide applicator license renewal

- (a) Each license for commercial pesticide application for companies with names beginning with a number or with the letters A, B, C, D, E, F, G, H, I, J, K, and L shall expire on the 30th day of September following issuance or renewal, and may be renewed for the ensuing calendar year, without penalty or reexamination if a properly completed application is filed with the Board not later than the 1st day of October of each year. If the application is not received by October 1, a penalty of twice the amount of the renewal fee shall be charged for renewal of the license. If the application is not received by November 1, an additional penalty of One Hundred Dollars (\$100.00) shall be paid by the applicant prior to license renewal.
- (b) Each license for commercial pesticide application for companies with names beginning with the letters M, N, O, P, Q, R, S, T, U, V, W, X, Y, and Z shall expire on the 31st day of December following issuance or renewal, and may be renewed for the ensuing calendar year, without penalty or reexamination if a properly completed application is filed with the Board not later than the 1st day of January of each year. If the application is not received by January 1, a penalty of twice the amount of the renewal fee shall be charged for renewal of the license. If the application is not received by February 1, an additional penalty of One Hundred Dollars (\$100.00) shall be paid by the applicant prior to license renewal.

PART 6. PESTICIDAL PRODUCT PRODUCING ESTABLISHMENTS

35:30-17-13. Incorporation by reference of federal pesticide producing establishment regulations

- (a) The Registration of Pesticide and Active Ingredient Producing Establishments, Submission of Pesticide Reports and Books and Records of Pesticide Production and Distribution Regulations found in Title 40 of the Code of Federal Regulations (CFR) (~~2024~~ 2023 Revision), Part 167 et seq. and Part 169 et seq. for the United States Environmental Protection Agency (EPA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of 40 CFR § 167.90.
- (b) All words or terms defined or used in the Federal regulations incorporated by reference shall mean the state equivalent or counterpart to those words or terms.

PART 9. MINIMUM STANDARDS FOR CONTRACTS AND KEEPING OF RECORDS

35:30-17-21.¹ Records required for pesticide applications and restricted use pesticide sales

(a) Commercial and non-commercial applicators shall keep accurate records pertaining to pesticide activities, which, at a minimum, show:

- (1) Start and stop time of application.
- (2) Total amount of pesticide used.
- (3) Name and address of the commercial or non-commercial company.
- (4) Name, certification number, and certification expiration date ~~number~~ of the certified applicator who made or supervised the application and name of the non-certified applicator under direct supervision, if any.
- (5) Name and address of person for whom applied.
- (6) Legal description of the land where applied. The legal description may be a street address if properly marked, but shall not be a Post Office Box address.
- (7) Date of application.
- (8) Application rate.
- (9) Dilution rate for mixing.
- (10) Total quantity tank mix used.
- (11) Complete trade name of pesticide product used.
- (12) EPA registration number of pesticide product used.
- (13) Name of adjuvants used when the label requires specific adjuvants.
- (14) Name of drifting agents used when the label requires specific drifting agents.
- (15) Target pest for the application.
- (16) Site where the pesticide was applied.
- (17) Size of the area treated.
- (18) Restricted Entry Interval as stated on the product label.
- (19) A copy of the pesticide product label or labeling that is attached to the container or included in the shipping case.
- (20) Copies of any contracts issued.
- (21) Copies of any wood infestation reports issued.
- (22) Other information as required by the Board.

(b) Private applicators of restricted use pesticides shall keep accurate records pertaining to applications, which, at a minimum, show:

- (1) Start and stop time of application.
- (2) Total amount of pesticide used.
- (3) Name and address of the private applicator.
- (4) Name, certification number, and certification expiration date ~~number~~ of the certified applicator who made or supervised the application and name of the non-certified applicator under direct supervision, if any.
- (5) Legal description of the land where applied. The legal description may be a street address if properly marked, but shall not be a Post Office Box address.
- (6) Date of application.
- (7) Application rate.
- (8) Dilution rate for mixing.

- (9) Total quantity tank mix used.
 - (10) Complete trade name of pesticide product used.
 - (11) EPA registration number of pesticide product used.
 - (12) Name of adjuvants used when the label requires specific adjuvants.
 - (13) Name of drifting agents used when the label requires specific drifting agents.
 - (14) Target pest for the application.
 - (15) Site where the pesticide was applied.
 - (16) Size of the area treated.
 - (17) Restricted Entry Interval as stated on the product label.
 - (18) A copy of the pesticide product label or labeling that is attached to the container or included in the shipping case.
 - (19) Other information as required by the Board.
- (c) Restricted use pesticide dealers shall keep accurate records of restricted use pesticide sales, which, at a minimum show:
- (1) Complete brand name of the pesticide.
 - (2) EPA registration number of the pesticide.
 - (3) Date the pesticide was sold.
 - (4) Total amount of restricted use pesticide sold.
 - (5) Name and address of the residence or principal place of business of any person to whom the restricted use pesticide was distributed or sold for application by a certified applicator.
 - (6) Name, address, license or certification number, and certification expiration date, or copy of the applicator's card of a certified or private applicator.
 - (7) The category(ies) in which the applicator is certified relevant to the pesticide(s) sold.
 - ~~(7)~~ (8) Other information as required by the Board.
- (d) Failure to allow inspection of records by the Board, to provide copies of records to the Board when requested in person, or to provide a summary of records to the Board within seven (7) working days when requested by mail or in person shall be a violation of this section.
- (e) Records retained pursuant to this section shall be easily accessible for inspection by authorized agents of the Board during reasonable business hours.
- (f) Commercial and non-commercial applicators shall maintain records retained pursuant to this section at their principle place of business. A commercial or non-commercial applicator's principle place of business shall not be located in a closed gated community or at a residence unless the applicator submits a plan of access to the principle place of business and that plan is approved by the Board.
- (g) Proof of training for a service technician making termite application shall be recorded by the licensee and available for review by the Department. The training records shall include the following information:
- (1) Name;
 - (2) Date of training; and
 - (3) Service technician number.

PART 12. MINIMUM RESIDUE LEVELS FOR TERMITICIDES APPLIED TO SOIL AND PERMITTED TOLERANCES FOR PESTICIDE TANK MIX AND CONCENTRATE SAMPLE ANALYSIS

35:30-17-28. Soil residue levels, parts per million (ppm)

(a) Post construction termiticide treatments with sampling performed within 180 days of treatment shall disclose residue threshold levels established in the vertical barrier for termiticides based on values obtained from research conducted at the U.S. Forest Research Center, Gulfport, Mississippi; Kard et al. 1989; Kard 1991, 1992, 1994, The Bayer Company, Agricultural Division, and the Board may establish interim residue levels for termiticide products for which no lowest expected threshold value exists utilizing input from Oklahoma State University, manufacturers, or industry until a value has been established.

(1) Torpedo and other 25.6 % Permethrin products shall have a residue threshold level of 63 ppm.

(2) Tribute and other 24.5 % Esfenvalerate products shall have a residue threshold level of 150 ppm.

(3) Prevail FT and other 24.8% Cypermethrin products shall have a residue threshold level of 46 ppm.

(4) Demon TC and other 25.3% Cypermethrin products shall have a residue threshold level of 28 ppm.

(5) Dragnet FT and other 36.8% Permethrin products shall have a residue threshold level of 85 ppm.

~~(6) Dursban TC shall have a residue threshold level of 51 ppm.~~

~~(7)~~ (6) Premise and other Imidacloprid products shall have a residue threshold level of 10 ppm.

~~(8) Cyren TC shall have a residue threshold level of 51 ppm.~~

~~(9) Navigator 4TC shall have a residue threshold level of 51 ppm.~~

~~(10) Chlorpyrifos Pro Termite Concentrate shall have a residue threshold level of 51 ppm.~~

~~(11)~~ (7) Termidor WG, and Termidor SC and other Fipronil products shall have a residue threshold level of 12 ppm.

~~(12)~~ (8) Cypermethrin G-Pro, EPA Reg. No. 79676-1, and other 24.8% Cypermethrin products shall have a residue threshold level of 46 ppm.

~~(13)~~ (9) Permethrin TC, EPA Reg. No. 51036-287, and Permethrin Pro, EPA Reg. No. 1021-1836, and other 36.8% Permethrin products shall have a residue threshold level of 85 ppm.

~~(14)~~ (10) Demon Max Insecticide, EPA Reg. No. 100-1218, and other 25.3% Cypermethrin products shall have a residue threshold level of 28 ppm.

~~(15)~~ (11) Talstar One Multi-Insecticide, EPA Reg. No. 279-3206, and other 7.9% Bifenthrin products shall have a residue threshold level of 11 ppm.

~~(16)~~ (12) Biflex SFR Termiticide/Insecticide, EPA Reg. No. 279-3177, and other 23.4% Bifenthrin products shall have a residue threshold level of 11 ppm.

(b) Pre-construction termiticide treatments (pre-treats) with sampling performed within 30 days or 180 days of treatment shall disclose residue threshold levels established in the vertical barrier for termiticides based on values obtained from research conducted at the U.S. Forest Research Center, Gulfport, Mississippi; Kard et al. 1989; Kard 1991, 1992, 1994, The Bayer Company, Agricultural Division, and the Board may establish interim residue levels for termiticide products for which no lowest expected threshold value exists utilizing input from Oklahoma State University, manufacturers, or industry until a value has been established.

- (1) Torpedo and other 25.6 % Permethrin products:
 - (A) Shall have a residue threshold level within 30 days of treatment of 90 ppm.
 - (B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 63 ppm.
- (2) Tribute and other 24.5 % Esfenvalerate products:
 - (A) Shall have a residue threshold level within 30 days of treatment of 204 ppm.
 - (B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 150 ppm.
- (3) Prevail FT and other 24.8% Cypermethrin products:
 - (A) Shall have a residue threshold level within 30 days of treatment of 64 ppm.
 - (B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 46 ppm.
- (4) Demon TC and other 25.3% Cypermethrin products:
 - (A) Shall have a residue threshold level within 30 days of treatment of 41 ppm.
 - (B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 28 ppm.
- (5) Dragnet FT and other 36.8% Permethrin products:
 - (A) Shall have a residue threshold level within 30 days of treatment of 97 ppm.
 - (B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 85 ppm.
- ~~(6) Dursban TC:~~
 - ~~(A) Shall have a residue threshold level within 30 days of treatment of 100 ppm.~~
 - ~~(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 51 ppm.~~
- ~~(7)~~ (6) Premise and other Imidacloprid products:
 - (A) Shall have a residue threshold level within 30 days of treatment of 10 ppm.
 - (B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 10 ppm.
- ~~(8) Cyren TC:~~
 - ~~(A) Shall have a residue threshold level within 30 days of treatment of 100 ppm.~~
 - ~~(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 51 ppm.~~
- ~~(9) Navigator 4TC:~~
 - ~~(A) Shall have a residue threshold level within 30 days of treatment of 100 ppm.~~
 - ~~(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 51 ppm.~~
- ~~(10) Chlorpyrifos Pro Termite Concentrate:~~
 - ~~(A) Shall have a residue threshold level within 30 days of treatment of 100 ppm.~~
 - ~~(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 51 ppm.~~
- ~~(11)~~ (7) Termidor WG, and Termidor SC and other Fipronil products:
 - (A) Shall have a residue threshold level within 30 days of treatment of 12 ppm.
 - (B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 12 ppm.

~~(12)~~ (8) Cypermethrin G-Pro, EPA Reg. No. 79676-1, and other 24.8% Cypermethrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 64 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 46 ppm.

~~(13)~~ (9) Permethrin TC, EPA Reg. No. 51036-287, and Permethrin Pro, EPA Reg. No. 1021-1836, and other 36.8% Permethrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 97 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 85 ppm.

~~(14)~~ (10) Demon Max Insecticide, EPA Reg. No. 100-1218, and other 25.3% Cypermethrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 41 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 28 ppm.

~~(15)~~ (11) TalstarOne Multi-Insecticide, EPA Reg. No. 279-3206, and other 7.9% Bifenthrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 11 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 11 ppm.

~~(16)~~ (12) Biflex SFR Termiticide/Insecticide, EPA Reg. No. 279-3177, and other 23.4% Bifenthrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 11 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 11 ppm.

(c) Pre-construction termiticide treatments (pre-treats) with sampling performed within 30 days or 180 days of treatment shall disclose residue threshold levels established in the horizontal barriers for termiticides based on values obtained from research conducted at the U.S. Forest Research Center, Gulfport, Mississippi; Kard et al. 1989; Kard 1991, 1992, 1994, The Bayer Company, Agricultural Division, and the Board may establish interim residue levels for termiticide products for which no lowest expected threshold value exists utilizing input from Oklahoma State University, manufacturers, or industry until a value has been established.

(1) Torpedo and other 25.6 % Permethrin products:

(A) Shall have a residue threshold level within 30 days of treatment of 68 ppm.

(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 47 ppm.

(2) Tribute and other 24.5 % Esfenvalerate products:

(A) Shall have a residue threshold level within 30 days of treatment of 153 ppm.

(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 113 ppm.

- (3) Prevail FT and other 24.8% Cypermethrin products:
 (A) Shall have a residue threshold level within 30 days of treatment of 48 ppm.
 (B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 35 ppm.
- (4) Demon TC and other 25.3% Cypermethrin products:
 (A) Shall have a residue threshold level within 30 days of treatment of 31 ppm.
 (B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 21 ppm.
- (5) Dragnet FT and other 36.8% Permethrin products:
 (A) Shall have a residue threshold level within 30 days of treatment of 73 ppm.
 (B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 64 ppm.
- ~~(6) Dursban TC:~~
~~(A) Shall have a residue threshold level within 30 days of treatment of 75 ppm.~~
~~(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 38 ppm.~~
- ~~(7) (6) Premise and other Imidacloprid products:~~
 (A) Shall have a residue threshold level within 30 days of treatment of 5 ppm.
 (B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 5 ppm.
- ~~(8) Cyren TC:~~
~~(A) Shall have a residue threshold level within 30 days of treatment of 75 ppm.~~
~~(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 38 ppm.~~
- ~~(9) Navigator 4TC:~~
~~(A) Shall have a residue threshold level within 30 days of treatment of 75 ppm.~~
~~(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 38 ppm.~~
- ~~(10) Chlorpyrifos Pro Termite Concentrate:~~
~~(A) Shall have a residue threshold level within 30 days of treatment of 75 ppm.~~
~~(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 38 ppm.~~
- ~~(11) (7) Termidor WG, and Termidor SC and other Fipronil products:~~
 (A) Shall have a residue threshold level within 30 days of treatment of 9 ppm.
 (B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 9 ppm.
- ~~(12) (8) Cypermethrin G-Pro, EPA Reg. No. 79676-1, and other 24.8% Cypermethrin products:~~
 (A) Shall have a residue threshold level within thirty (30) days of treatment of 48 ppm.
 (B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 35 ppm.
- ~~(13) (9) Permethrin TC, EPA Reg. No. 51036-287, and Permethrin Pro, EPA Reg. No. 1021-1836, and other 36.8% Permethrin products:~~

(A) Shall have a residue threshold level within thirty (30) days of treatment of 73 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 64 ppm.

~~(14)~~ (10) Demon Max Insecticide, EPA Reg. No. 100-1218, and other 25.3%

Cypermethrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 31 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 21 ppm.

~~(15)~~ (11) TalstarOne Multi-Insecticide, EPA Reg. No. 279-3206, and other 7.9%

Bifenthrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 11 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 11 ppm.

~~(16)~~ (12) Biflex SFR Termiticide/Insecticide, EPA Reg. No. 279-3177, and other 23.4%

Bifenthrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 11 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 11 ppm.

(d) Any distributor product, as defined by 40 C.F.R. § 152.132, or any product with an alternate brand name and identical registration number shall be subject to the residue threshold levels for the related primary registration or brand name contained in this section.

(e) Any product not listed in this section shall have the residue threshold levels as established either through independent research projects accepted by the Department or through accepted documentation provided to the Department by the manufacturer.

(1) Any residue threshold levels established pursuant to this subsection shall be communicated to the public through the Department's website.

(2) The Department shall maintain a list of all records, studies, and correspondence utilized to establish residue threshold levels pursuant to this subsection.

PART 18. MINIMUM STANDARDS FOR THE USE OF TERMITE BAITS AND BAITING SYSTEMS FOR NEW CONSTRUCTION AND EXISTING STRUCTURES

35:30-17-75.1. General requirements for application

(a) Commercial and noncommercial applicators applying termite bait or termite baiting systems shall have a valid Oklahoma license in the structural pest category.

(b) Application shall be performed by a certified applicator, certified in the structural pest category or under the terms of "Direct Supervision" as defined in 2 O.S. § 3-81(15).

(c) Any certified applicator or any person working under the supervision of a certified applicator who applies termite bait or termite baiting systems shall be trained in the use of termite baits or termite baiting systems prior to any application. The manufacturer shall give prior notice to the

Board of the time, location, and agenda of certification and training programs. The Board may attend and observe certification and training programs. The manufacturer shall identify all trained certified applicators and service technicians in writing to the Board.

(d) A written contract pursuant to 2 O.S. § 3-81(11) and OAC 35:30-17-20 shall be completed prior to a termite bait or termite baiting system application, and shall also include the following:

(1) A term for at least one year with an option for renewal by the parties.

(2) A block for the consumer to initial verifying a consumer information sheet on the termite bait or termite baiting system was provided.

(e) Termite bait or baiting systems may be used as a new construction treatment in place of a preconstruction treatment.

(f) Above-ground bait stations shall be used according to their label when the presence of subterranean termites are detected in a structure. Above-ground bait stations shall be monitored no less than quarterly.

(g) Records of contracts, graphs, monitoring, and bait applications shall be kept according to the minimum standards.

(h) Proof of training for a service technician making termite application shall be recorded by the licensee and available for review by the Department. The training records shall include the following information:

(1) Name;

(2) Date of training; and

(3) Service technician number.

PART 21. STANDARDS FOR DISPOSAL OF PESTICIDE AND PESTICIDE CONTAINERS

35:30-17-89.1. Incorporation by reference of federal pesticide management and disposal regulations

(a) The Labeling Requirements for Pesticides and Devices, Container Labeling and Pesticide Management and Disposal regulations found in Title 40 of the Code of Federal Regulations (CFR) (~~2021~~ 2023 Revision), Part 156.140 et seq. and Part 165 et seq. for the United States Environmental Protection Agency (EPA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety.

(b) All words or terms defined or used in the federal regulations incorporated by reference shall mean the state equivalent or counterpart to those words or terms.

35:30-17-93. Handling pesticide containers by commercial applicators

The following procedure governs handling of pesticide containers other than bulk pesticide containers by commercial applicators:

(1) Full or partially full containers:

(A) Pesticide containers shall be stored in a secure and locked enclosure.

(B) Pesticide containers shall be free of leaks.

(C) The storage area shall be maintained in good condition without ~~unnecessary~~ unnecessary debris.

(D) Storage areas shall be identified by signs.

(2) Empty containers. Empty containers shall be stored in a secured area and kept for no more than ninety (90) days following use.

(3) Metal, glass, and plastic containers:

(A) All metal, glass, and plastic containers shall be triple-rinsed or pressure rinsed immediately after the pesticide is removed by the following or equivalent procedures:

- (i) Using water or a detergent as a rinse capable of removing the pesticide, each container shall be filled with rinse equal to approximately ten percent (10%) of the volume of pesticides originally in the container.
- (ii) The rinse shall be agitated thoroughly on all interior surfaces of the container. Agitation shall be accomplished by use of agitation equipment approved by the Department or by manual agitation of the rinse.
- (iii) The rinsing procedure shall be repeated three times.
- (iv) If the rinsate containing the rinse can be used in subsequent applications of the pesticide without reducing the effectiveness of the pesticide, the rinsate may be placed in the containment tank specified for that pesticide. If the rinsate is not classified as a controlled industrial waste upon disposal, it shall be placed in an approved surface impoundment.

(B) Upon completion of the triple-rinsing or pressure rinsing procedures, containers shall be disposed of as follows:

- (i) Disposal in any permitted solid waste facility or sanitary landfill so long as all metal and plastic containers are pierced in each end;
- (ii) Return, if possible, to the pesticide sales agent or the pesticide manufacturer pursuant to prior agreement; or
- (iii) Resale to a third party for recycling or reconditioning.

(C) All pesticides shall be removed from paper and plastic bags to the maximum extent possible when the pesticide is initially mixed for application. Paper and plastic containers shall be disposed of as follows:

- (i) Cut all sides of the container and open the container fully, without folds or crevices, on a flat surface. Shake any pesticides remaining in the opened container into the pesticide mix.
- (ii) After cutting and flattening the pesticide containers, dispose of containers in a solid waste facility or sanitary landfill.

SUBCHAPTER 24. OKLAHOMA INDUSTRIAL HEMP PROGRAM

35:30-24-2. Definitions

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

"Acceptable Hemp THC Level" means when a laboratory tests a sample, it shall report the total delta-9 tetrahydrocannabinol content concentration level on a dry-weight basis and the measurement of uncertainty. The acceptable hemp THC level, for the purpose of compliance with the requirements of the state hemp plan, is when the application of the measurement of uncertainty to the reported total delta-9 tetrahydrocannabinol content concentration level on a dry-weight basis produces a distribution or range that includes 0.3% or less.

"Building" means any single standing structure with walls and a roof but shall not include separate structures connected by corridors or breezeways.

"Cannabis" means the plant that, depending upon its THC concentration level, is further defined as either "hemp" or "marijuana". Cannabis is a genus of flowering plants in the family Cannabaceae of which Cannabis sativa is a species and Cannabis indica and Cannabis ruderalis are subspecies thereof. Cannabis refers to any form of the plant where the total delta-9 tetrahydrocannabinol concentration on a dry weight basis has not yet been determined. The term "Cannabis" is important in describing regulations that apply to plant production, sampling, or handling prior to determining the plant's THC content.

"Contiguous field" means any contiguous tract of land used for the cultivation of industrial hemp and may include contiguous tracts of land occasionally intersected by roads, streams, or other natural features but shall not include a tract or tracts of land intersected by property owned by a third party or gaps in the cultivation of industrial hemp exceeding one quarter of a mile.

"Controlled Substances Act (CSA)" means the federal statutes, codified at 21 U.S.C. 801-971, establishing federal U.S. drug policy under which the manufacture, importation, exportation, possession, use, and distribution of certain substances is regulated. Because cannabis containing THC concentration levels of higher than 0.3 percent is deemed to be marijuana, a schedule I controlled substance, its regulation falls under the authorities of the CSA. The requirements of the CSA are relied upon for the disposal of cannabis that contains THC concentrations above 0.3 percent.

"Cultivation" means the act of planting, growing, or harvesting industrial hemp and any related agricultural activities.

"Cultivation site" means the contiguous field, building, storage area, or processing area in which one or more varieties of industrial hemp may be lawfully cultivated, stored, or processed.

"Decarboxylated" means the completion of the chemical reaction that converts THC-acid (THCA) into total delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums total delta-9-THC and eighty-seven and seven tenths (87.7) percent of THCA. This term, commonly used in scientific references to laboratory procedures, is the precursor to the term "post-decarboxylation," a term used in the 2018 Farm Bill's mandate over cannabis testing methodologies to identify THC concentration levels.

"Delta-9 tetrahydrocannabinol", "Delta-9 THC" or "THC" means the primary psychoactive component of cannabis. Hemp production shall be verified as having THC concentration levels of 0.3 percent or less on a dry weight basis.

"Department" means the Oklahoma Department of Agriculture, Food, and Forestry, its employees, officers, and divisions.

"Growing area" means the portion of a contiguous field or building in which a single variety of industrial hemp is planted, grown, and harvested.

"Handling" means possessing or storing industrial hemp for any period of time on premises owned, operated, or controlled by a person licensed to cultivate or process industrial hemp. Handling includes possessing or storing industrial hemp in a vehicle for any period of time other than during its actual transport from the premises of a licensed person to cultivate or process industrial hemp to the premises of another licensed person.

"Industrial hemp" means the plant, *Cannabis-sativa* L., and any part of the plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a total delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis.

"Key Participants" means a person or persons who have a direct or indirect financial interest in an entity producing hemp, such as an owner or a partner in a partnership. Executive level corporate employees, including chief executive officer, chief operating officer, and chief financial officer shall be considered Key Participants. Management level positions such as farm, field, and shift managers shall not be considered Key participants.

"License" means authorization by the Department for any person to grow and cultivate industrial hemp on a registered land area as part of the Oklahoma Industrial Hemp Program.

"Licensee" means a person who holds a valid Industrial Hemp License to grow industrial hemp under the Oklahoma Industrial Hemp Program. A licensee shall have the ability to remediate noncompliant industrial hemp with a total delta-9 tetrahydrocannabinol concentration of not more than one percent (1.0%) on a dry-weight basis for retesting as set forth by the Department as long as the noncompliant industrial hemp has a total delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry-weight basis after retesting, and the option to remediate the industrial hemp through the reasonable destruction of the flower or plant that is above three-tenths of one percent (0.3%) on a dry-weight basis. All noncompliant hemp must be tracked and documented. The State Board of Agriculture shall have jurisdiction over such remediation, with includes, but is not limited to, destruction through composting, burning, or other regulated disposal methods if the industrial hemp is not remediated into a final product before processing below three-tenths of one percent (0.3%) on a dry-weight basis;

"Postdecarboxylation" means testing methodologies for THC concentration levels in hemp, where the total potential total delta-9-tetrahydrocannabinol content, derived from the sum of the THC and THCA content, is determined and reported on a dry weight basis. The postdecarboxylation value of THC can be calculated by using a chromatograph technique using heat, known as gas chromatography, through which THCA is converted from its acid form to its neutral form, THC. The result of this test calculates total potential THC. The postdecarboxylation value of THC can also be calculated by using a high-performance liquid chromatograph technique, which keeps the THCA intact, and requires a conversion calculation of that THCA to calculate total potential THC.

"Processing" means converting industrial hemp into a marketable form, including the production of all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers.

"Processing area" means any physical location in which entire harvested plants are altered by any manner of mechanical, chemical, or other processing techniques. The processing area need not be located on or near the contiguous field or building in which industrial hemp is cultivated but shall be considered as part of the cultivation site.

"Produce" refers to the propagation of cannabis to produce hemp.

"Storage area" means any physical location in which harvested plants or plant parts are stored. The storage area need not be located on or near the contiguous field or building in which industrial hemp is cultivated but shall be considered as part of the cultivation site.

"Subcontractor" means a person or business entity that has contracted with an

institutional licensee and provides supplies, labor, land, or expertise related to the institutional licensee's participation in the Oklahoma Industrial Hemp Program.

"USDA" means the United States Department of Agriculture.

35:30-24-3. Application

- (a) Any person, eighteen (18) years of age or older, or business entity may participate in the Oklahoma Industrial Hemp Program by filing an application with the Department for a license:
 - (1) Not less than thirty (30) days prior to the planting, cultivation, handling, or processing of any industrial hemp crop; or
 - (2) No later than December 1 if a subsequent license is required to harvest industrial hemp crops planted before December 31 but scheduled for harvest after December 31.
- (b) An applicant shall submit a separate application, pay separate application and inspection fees, and obtain a separate license for each cultivation site.
- (c) The application shall be on a form provided by the Department and shall, at a minimum, contain the following information:
 - (1) The name and address of the applicant;
 - (2) EIN number, if the applicant is a business entity, along with names and email addresses of key participants;
 - (3) The contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees responsible for oversight of the Oklahoma Industrial Hemp Program and communications with the Department relating to the cultivation of industrial hemp;
 - (4) If the applicant intends to utilize subcontractors, the correct legal name of the subcontractors along with all aliases or trade names of the subcontractors;
 - (5) If the applicant intends to utilize subcontractors, the address for the subcontractors' primary business locations and any satellite business offices located in Oklahoma;
 - (6) If the applicant intends to utilize subcontractors, the contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees of the subcontractor responsible for oversight of the Oklahoma Industrial Hemp Program and communications with the Department relating to the cultivation of industrial hemp;
 - (7) Proof of ownership for the cultivation site and the following information if the cultivation site is not wholly owned by the applicant:
 - (A) The name, address, and contact information for all persons or entities having any ownership interest in the cultivation site;
 - (B) An original signed, dated, and notarized letter of acknowledgement from each person having any ownership interest in the cultivation site indicating approval for the cultivation of industrial hemp at the cultivation site; and
 - (C) If applicable, a copy of the property lease for the entire duration of the license;
 - (8) If the application identifies a contiguous field as the cultivation site:
 - (A) A legal description (Section, Township, Range) of the contiguous field;
 - (B) The global positioning location coordinates at the approximate center of the contiguous field; and
 - (C) An annotated map or aerial photograph with sufficient detail and clarity to

define the boundaries and dimensions of the contiguous field in acres, and, if applicable, the locations, boundaries, and dimensions of different growing areas within the contiguous field along with a description of the variety of industrial hemp corresponding to each growing area;

- (9) If the application identifies a building as the cultivation site:
 - (A) The physical address of the building;
 - (B) The global positioning location coordinates of the building; and
 - (C) An annotated map or blueprint with sufficient detail and clarity to show the boundaries and dimensions of the building and growing area in square feet, and, if applicable, the locations, boundaries, and dimensions of different growing areas within the building along with a description of the variety of industrial hemp corresponding to each growing area;
 - (10) A description of any areas used to store or process plants or plant parts, including but not limited to:
 - (A) The physical address or location of any storage areas or processing areas;
 - (B) The global positioning location coordinates of any storage areas or processing areas; and
 - (C) An annotated map or blueprint with sufficient detail and clarity to show the location, boundaries and dimensions of any storage areas or processing areas in square feet;
 - (11) A schedule identifying the intended dates of planting and intended dates of harvesting any industrial hemp crop or crops;
 - (12) A statement of intended use and disposition for the industrial hemp harvested from the cultivation site or any plant parts thereof;
 - (13) A notarized and sworn statement from an official or employee of the applicant and from an official or employee of any associated subcontractor that only industrial hemp seed will be planted at the cultivation site; and
 - (14) Acknowledgement and agreement with the following terms and conditions:
 - (A) Any information provided by the applicant or subcontractors shall be subject to public disclosure under the Open Records Act;
 - (B) Any information provided by the applicant or subcontractors may be released by the Department to law enforcement agencies without notice to the applicant or its subcontractors;
 - (C) The applicant and subcontractors shall fully cooperate with the Department, grant the Department physical access to any part of the cultivation site and allow the Department to conduct inspection and sampling; and
 - (D) The applicant and subcontractors shall submit all required reports by the dates specified by the Department.
 - (15) Current criminal history reports for all key participants dated within sixty (60) days prior to the application submission date. A license application shall not be considered complete without all required criminal history reports.
- (d) The application for a processor/ handlers license shall be on a form provided by the Department and shall, at a minimum, contain the following information:
- (1) The name and address of the applicant;
 - (2) EIN number, if the applicant is a business entity, along with the names and email

- addresses of key participants; and
- (3) The contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees responsible for oversight of the Oklahoma Industrial Hemp Program and communications with the Department relating to the processing or handling of industrial hemp.
- (4) Current criminal history reports for all key participants dated within sixty (60) days prior to the application submission date. A license application shall not be considered complete without all required criminal history reports.
- (e) Each applicant and subcontractor shall fully cooperate with the Department, grant the Department physical access to any part of a cultivation site, and allow the Department to conduct inspection and sampling.
- (f) Incomplete applications shall not be processed by the Department and any associated application fees shall be retained by the Department.
- (g) Applications that are denied by the Department may be resubmitted within twelve (12) months of the original filing. The Department may waive application fees for resubmitted applications.
- (h) Any person, eighteen (18) years of age or older, or business entity that intends to conduct research using industrial hemp shall submit a summary of the research that will be conducted with the application to the Oklahoma Department of Agriculture, Food, and Forestry for approval.

35:30-24-5.3. Establishing records with USDA Farm Service Agency

Licensees shall report industrial hemp crop acreage or square footage to the USDA Farm Service Agency ("FSA") and shall provide the FSA, ~~at a minimum,~~ the following information:

- ~~(1) Street address and, to the extent practicable, geospatial location for each lot, greenhouse, or indoor growing structure where industrial hemp will be produced. If an applicant operates in more than one location, information shall be provided for all production sites FSA-578 Report;~~
- ~~(2) Acreage or square footage for each lot, greenhouse, or indoor growing structure dedicated to the production of industrial hemp~~ Name of the producer, which must match the name on the hemp license;
- ~~(3) License number~~ Acreage report that includes the producer's license number;
- ~~(4) Total acreage or square footage of industrial hemp planted, harvested, and destroyed~~ Location and number of lots intended to be planted; and
- ~~(5) Any changes to the information provided shall be reported within thirty (30) days to USDA Farm Service Agency. Each variety or strain must be reported as a separate lot;~~
- ~~(6) Research lots may be grown for research purposes only;~~
- ~~(7) Research lots will report the average planting date if field was planted over several days;~~
- ~~(8) Greenhouse, Warehouse, or similar indoor facility must follow the same guidance as traditional growers. They must report: location, subfield(s), and planting date(s) for all varieties and end-uses; and~~
- ~~(9) Crops used for propagation purposes to sell to other producers will report the crop using Se as the intended use when it is seeded in the greenhouse or similar facility. Crop may be reported using the same method as a research grower.~~

35:30-24-6. Continuing obligation to provide information

(a) Every licensee shall have a continuing obligation to provide current information to the Department and FSA. The licensee shall provide updated information if there is any material change to the information provided in the application within ten (10) days of the material change unless otherwise specified herein, including but not limited to, changes in personnel or contact information.

(b) The licensee shall file an amendment to the licensee's application with the Department and FSA not less than thirty (30) days prior to making any alteration to boundaries, dimensions, or growing areas of a cultivation site or a change in the variety of industrial hemp cultivated.

(c) The licensee shall immediately notify the Department and FSA of any change to the planting and harvesting schedule exceeding five (5) days from the planting and harvesting schedule listed in the application.

(d) The employment of a new subcontractor or replacement of an existing subcontractor associated with a license for a particular cultivation site shall require the submission of a new application and the payment of new application and inspection fees by the licensee.

35:30-24-6.1. Transportation

Upon the request of the Department or any authorized law enforcement officer, any person transporting industrial hemp shall produce the following documents for inspection:

(a) Copy of current hemp grower's license;

(b) Current approved certificate of analysis for the harvested hemp crop; and

(c) Processor/Handlers license number, name, address, and contact information.

35:30-24-11. Inspection and testing

(a) The Department shall utilize an evidence gathering methodology approved by the United States Department of Agriculture for the inspection of cultivation sites and the collection of industrial hemp test samples.

(b) The Department may develop laboratory testing methodologies to verify the concentration of total delta-9 tetrahydrocannabinol in industrial hemp test samples or the Department may contract with another laboratory to conduct such testing using laboratory protocols approved by the Department. If the Department contracts with another laboratory, the contracted laboratory shall meet the following minimum requirements:

(1) Analytical testing of samples for total delta-9 tetrahydrocannabinol concentration shall use post-decarboxylation or other similarly reliable methods;

(2) Testing methodology shall account for the potential conversion of total delta-9 tetrahydrocannabinolic acid (THCA) in hemp into total delta-9 tetrahydrocannabinol (THC) and the test results shall reflect the total available THC derived from the sum of the THC and THCA content;

(3) Total delta-9 tetrahydrocannabinol concentration level shall be determined and reported on dry weight basis; and

(4) A measurement of uncertainty shall be estimated and reported with the lab results. The laboratory shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty.

(c) The Department shall inspect and take samples from any cultivation site and mature *Cannabis sativa* L. plants located thereon, as follows:

- (1) Within ~~fifteen (15)~~ thirty (30) days prior to the anticipated harvest of cannabis plants, a sample from the flower material shall be collected to determine the total delta-9 tetrahydrocannabinol concentration.
- (2) The Department shall send notification of routine inspections to the licensee and subcontractor, if applicable, describing the date, time, scope, and process of routine testing. The licensee, subcontractor, or representative shall be present during routine inspections and grant unrestricted access to the Department.
- (3) The Department may conduct unannounced inspections and collect samples from any cultivation site during regular business hours without advance notice.
- (4) A producer shall not harvest the cannabis plants prior to collection of samples.
- (d) Industrial hemp test samples collected by the Department during routine or unannounced inspections shall be tested to verify that the ~~delta-9 tetrahydrocannabinol concentration of~~ industrial hemp does not exceed ~~0.3% on dry weight basis~~ the acceptable hemp THC level.
- (e) Industrial pre-harvest hemp sampling shall be conducted according to the Department standard field operating procedures.
- (f) The licensee shall pay the hourly inspection fees and laboratory analysis costs for any routine and unannounced inspections within thirty (30) days after receiving an invoice from the Department.
- (g) The Department shall waive all hourly inspection fees and laboratory analysis costs for an unannounced inspection if no violations or inconsistencies are identified by the Department.

35:30-24-13. Destruction

- (a) The licensee shall destroy all Cannabis sativa L. plants or plant parts if required by the rules of this subchapter or by order of the Department.
- (b) Destruction of plants shall be conducted pursuant to the USDA Remediation and Disposal Guidelines for Hemp Growing Facilities ~~provisions of subsection (e) of this section unless the Department provides the licensee written authorization for an alternate method of destruction.~~
- (c) The licensee shall document the destruction of Cannabis sativa L. plants or plant parts in a corrective action plan, as follows:
 - (1) The licensee shall submit a notification of intended destruction, including the time and date of destruction, to the Department not less than five (5) days prior to the date that the licensee intends to undertake the destruction of the Cannabis sativa L. plants or plant parts. ~~Destruction shall only occur in the presence of a Department inspector or representative;~~
 - (2) The licensee shall make and retain a date-stamped electronic video recording the collection, ignition, and incineration of the Cannabis sativa L. plants or plant parts. The video recording shall be retained as a record relating to the destruction of industrial hemp for not less than three (3) years. The date stamp need not be displayed on the video recording but shall, at a minimum, appear in the electronic file name. The electronic video recording shall consist of sufficient duration and detail to verify that the destruction occurred and was complete; and

- (3) An officer or employee of the licensee or subcontractor responsible for oversight of the Oklahoma Industrial Hemp Program and communications with the Department relating to the cultivation of industrial hemp shall submit an affidavit to the Department affirming the destruction not more than ten (10) days following the destruction.
- (d) Destruction by incineration shall be conducted safely and shall be conducted in a manner consistent with the requirements for prescribed burning at 2 O.S. §16-28.2. The licensee shall delay the destruction required by this subchapter or by order of the Department until the risk of starting a wildfire is minimal.
- (e) If a producer has produced cannabis exceeding the acceptable hemp THC level, the material shall be disposed of in accordance with the ~~CSA and DEA regulations as the material constitutes marijuana, a schedule I controlled substance under the CSA~~ USDA Remediation and Disposal Guidelines for Hemp Growing Facilities. The material shall be ~~collected for destruction by a person authorized under the CSA to handle marijuana, such as a DEA-registered reverse distributor, or a duly authorized Federal, State, or local law enforcement officer~~ disposed of by one of the following methods: plowing under, mulching or composting, disking, bush mower or chopper, deep burial, or burning.

SUBCHAPTER 30. SOIL AMENDMENT

35:30-30-3. Contents of the label

- (a) Label information may be printed on the primary or secondary display panel on the bag containing the product, printed on a sticker placed on the bag, printed on a flyer or tag attached to the bag, or in the case of bulk bags or bulk, any of the above or printed on a fact sheet accompanying the shipment.
- (b) The Board shall require each label to contain the following minimum information. Additional information of an instructional or explanatory nature may be provided at the discretion of the registrant.
- (1) The product name as registered.
 - (2) The quantity of the product in quarts, cubic feet, yards, or metric equivalents or the weight of the product in ounces, pounds, tons or metric weights or the fluid measure in fluid oz, quarts or gallons or metric equivalents as determined by the dominant method of sale by the industry and as registered.
 - (3) The guaranteed analysis for inorganic based soil amendments shall include the name and the percentage of each active ingredient, ~~and the percentage of inert ingredients.~~
 - (4) The guaranteed analysis for microbiological based soil amendments intended as an inoculum shall include the expiration date, state the number and kind of viable organisms per milliliter, or, if the product is other than liquid, state the number and kind of viable organisms per gram. If the product is not intended as an inoculum, then the product label shall state that the product is not a viable culture.
 - (5) In lieu of a guaranteed analysis for organic based soil amendments an ingredient list shall show all components whether organic or inorganic. Components shall be listed in order of decreasing volume, if they comprise at least three percent (3%) or more of the total volume of the product. Components shall be described as follows:

- (A) Bark products shall be described as raw, aged, processed, or composted. Bark shall also be specified as pine or softwood (meaning Gymnosperm), or hardwood (not Gymnosperm), and may include no more than fifteen per cent (15%) wood by volume.
- (B) Peat products shall be described in accordance with ASTM standards as to whether they are sphagnum, hypnum, reed-sedge, humus, or other peat.
- (C) Wood products shall be described as raw, aged, processed, reprocessed or composted.
- (D) Readily degradable organic substances shall be listed and described as raw, aged, processed or composted.
- (E) The base material for any other composted product shall be described as listed.
- (F) Mulches shall be described as listed in the components.
- (G) Manures shall be described as listed in the components.
- (6) Application rates and intended use statements such as general recommendations for product use. If cautionary warnings of uses not recommended are made, they should be stated in this section of the label.
- (7) An address where further product information may be obtained, and a telephone number available during normal business hours for further product information.
- (8) For products intended for use by commercial growers, the date of manufacture, or the month and year of manufacture, stated at any location on the bag. If the date or month and year of manufacture is coded, sufficient information must be provided to determine the date or month and year of manufacture from the code.
- (9) The Board may require a registrant to include a warning or caution statement to ensure safety.

SUBCHAPTER 31. LIME

35:30-31-4. Schedule of ag-lime program fees

- (a) The annual vendors license fee shall be Twenty Five Dollars (\$25.00). Each license shall expire December 31 of each year.
- (b) An inspection fee of ten cents (\$0.10) per ton shall be paid to the Board on all agricultural liming material sold or distributed for use within this state. If no lime was sold or distributed in this state for the semiannual period, manufacturers shall submit a statement reflecting that information and shall remit a minimum fee of Five Dollars (\$5.00).
- (c) If the Board finds any deficient inspection fees due, as a result of an audit of the records of any person subject to the provisions of the Oklahoma Agricultural Liming Materials Act, the Board shall assess a penalty fee of ten percent (10%) maximum not to exceed Two Thousand Dollars (\$2,000.00) of amount due, or One Hundred Dollars (\$100.00), whichever is greater. The audit penalty shall be added to the deficient inspection fees due and payment made within thirty (30) days.
- (d) The Board shall not issue and may revoke any registration, if the Board determines that the registration is for the primary purpose of disposal of the product or substance.

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 revokes thousand cankers disease and emerald ash borer quarantine; adds Haskell county to the regulated area for fire ants; adds additional categories to pesticide license and adds a certification; adds additional language for pesticide licenses that expire on September 30th of each year and adds businesses that start with numbers for the license renewal; updates references to the Code of Federal Regulation; adds certification numbers and expiration dates to records that must be kept accurate for pesticide applicators; adds new language for proof of training for a service technician; adds language to the residue threshold to include generic pesticide mixes; update language for the Oklahoma Industrial Hemp Program to comply with USDA requirements; removes the requirement for percentage of inert ingredients for soil amendments; and adds language for the revocation of registrations for lime.

(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 Oklahoma Industrial Hemp 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 Oklahoma Industrial Hemp 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 November 6, 2023.

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

CHAPTER 37. FOOD SAFETY

SUBCHAPTER 5. POULTRY PRODUCTS INSPECTION

PART 1. GENERAL PROVISION

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

(a) The Mandatory Poultry Inspection Regulations found in Title 9 of the Code of Federal Regulations (CFR), Parts 381; 416; 417; 418; 424; 430; 441; 442; and 500 for the United States Department of Agriculture (USDA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of the deleted regulations specified in 35:37-5-2. Whenever an official mark, form, certificate, or seal is designated by federal regulations, the appropriate Oklahoma Department of Agriculture, Food, and Forestry mark, form, certificate, or seal shall be substituted.

(b) All words and terms defined or used in the federal regulations incorporated by reference by the Department shall mean the state equivalent or counterpart to those words or terms.

(c) The following terms, when used in this subchapter, shall have the following meaning unless the context clearly indicates otherwise:

(1) **"Act"** means the Oklahoma Poultry Products Inspection Act.

(2) **"Director"** means the Director of Meat Inspection.

(3) **"Poultry"** means any domesticated bird, whether live or dead, including chickens, turkeys, ducks, geese, guineas, domesticated quail, domesticated pheasant, ratites, or squabs (also known as young pigeons from one to about thirty (30) days of age).

(4) **"Poultry product"** means any poultry carcass, part, or product made wholly or in part from any poultry carcass or part that can be used as human food, except those exempted from definition as a poultry product in Title 9 of the Code of Federal Regulations (CFR), Part 381.15. This term shall not include detached ova.

(5) **"Poultry byproduct"** means the skin, fat, gizzard, heart, or liver, or any combination of any poultry for cooked, smoked sausage.

35:37-5-2. Deleted regulations and exemptions

(a) The following sections of the Federal regulations governing the mandatory poultry inspection (9 CFR, Part 381; 416; 417; 418; 424; 441; 442; and 500), of the USDA incorporated by reference under 35:15-27-1 are deleted and are not rules of the Oklahoma Department of Agriculture, Food, and Forestry: 381.6; 381.10(a)(2), (5), (6), and (7); 381.10(b); 381.10(d)(2)(i); 381.13(b); 381.16; 381.17; 381.20; 381.21; 381.37; 381.38; 381.39; 381.96; 381.101; 381.103 through 381.112; 381.123(b)(1) and (4); 381.132(c); 381.133; 381.179; 381.185; 381.186; and 381.195 through 381.225.

(b) The provisions of this Act and rules do not apply to poultry producers who slaughter their own poultry raised on their farm, and each of the following apply:

(1) The producers slaughter no more than two hundred and fifty (250) turkeys or their equivalent with a ratio of four (4) birds of other species, excluding ratites, to one (1) turkey during a calendar year;

- (2) The producers do not engage in buying or selling poultry products other than those produced from poultry raised on their own farms;
 - (3) The whole bird poultry ~~and poultry products~~ does not move in commerce. Producers are prohibited from selling or donating uninspected poultry products to retail stores, brokers, meat markets, schools, orphanages, restaurants, nursing homes, and other similar establishments and are prohibited from sales or donation of uninspected poultry through any type of retail market or similar establishment owned or operated by the producer;
 - (4) The producers submit a certificate of registration to the Department;
 - (5) The poultry is healthy, slaughtered, and processed under sanitary standards, practices, and procedures that result in the preparation of whole bird poultry ~~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 whole bird poultry is sold directly to the household consumer, restaurant, hotel, or boardinghouse, for use in their establishment or in the preparation of meals for sales directly to consumers and transported without third-party intervention or intervening transfer or storage, and is maintained in a safe and unadulterated condition during transportation; and
 - (7) The producers allow an authorized agent of the Department access to their facilities and an opportunity to examine records at all reasonable times, upon notice.
- (c) The provisions of this Act and rules do not apply to poultry producers who slaughter their own poultry raised on their farm, and each of the following apply:
- (1) The producers slaughter no more than two thousand five hundred (2500) turkeys or their equivalent with a ratio of four (4) birds of other species, excluding ratites, to one (1) turkey during a calendar year;
 - (2) The producers do not engage in buying or selling poultry products other than those produced from poultry raised on their own farms;
 - (3) The poultry is sold by the producer, or other person for distribution by the producer, solely within the producer's jurisdiction, directly to household consumers, restaurants, hotels, and boardinghouses for use in their own dining rooms or in the preparation of meals for sales directly to consumers;
 - (4) The producers submit a certificate of registration to the Department;
 - (5) The poultry is healthy, slaughtered, and processed under sanitary standards, practices, and procedures that result in the preparation of whole bird poultry ~~products~~ that are sound, clean and fit for human food, and each whole bird 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 17. PRODUCE SAFETY

35:37-17-2. Definitions

(a) All words or terms defined or used in the federal regulations incorporated by reference shall mean the state equivalent or counterpart to those word or terms.

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

(1) "Covered produce farm" means any farm engaged in the growing, harvesting, packing, or holding of produce for human consumption which is subject to the requirements of the FDA Food Safety Modernization Act.

(2) "Produce" means any fruit or vegetable (including mixes of intact fruits and vegetables) and includes mushrooms, sprouts (irrespective of seed source), and herbs. Produce does not include food grains meaning the small, hard fruits or seeds of cereal grains and oil seeds.

(3) "Adulterated Food" means food that fails to meet the legal standards and bears or contains any poisonous or deleterious substance which may render it injurious to health including any pesticide chemical residue that is unsafe according to EPA standards, food additive that is unsafe according to FDA standards, color additive that is unsafe according to FDA standards, or new animal drug that may cause injury or make the product unfit for food. Also includes food that has been prepared, packed, or held under insanitary conditions or contaminated with filth, such as insects. Also if the food container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

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 (see also definition in OAC 310:257-1-2);

"Delivered" means transferred to the customer, either immediately upon sale or at a time thereafter;

"Home food establishment" means a business on the premises of a home, apartment, or other dwelling in which a producer resides and in which homemade food products are created for sale or resale if the business has gross annual sales of prepared food of less than Seventy-five Thousand Dollars (\$75,000.00). A home food establishment shall be limited to one business per premises, but gross annual sales of the business shall include all sales of prepared food produced by the business at any location;

"Homemade food product" means human food, including a beverage, which is produced and, if packaged, packaged at a residence; provided, however, homemade food product shall not mean alcoholic beverages, unpasteurized milk, cannabis or marijuana products and shall not contain seafood, including, but not limited to, all fish, shellfish, and fishery products, meat, meat by-products, or meat food products as defined by Section 301.2 of Title 9 of the Code of Federal Regulations or poultry, poultry products, or poultry food products as defined for purposes of the federal Poultry Products Inspection Act;

"Non-time-or-temperature-controlled-for-safety" means food that does not require

time or temperature control for safety to limit the rapid and progressive growth of infectious or toxigenic microorganisms, including foods that have a pH level of four and six-tenths (4.6) or below or a water activity (aw) value of eighty-five one-hundredths (0.85) or less;

"Produce" means to prepare a food product by cooking, baking, drying, mixing, cutting, canning, fermenting, preserving, dehydrating, growing, raising, or other process;

"Producer" means the person who produces a homemade food product in a home food establishment; and

"Time-or-temperature-controlled-for-safety" means a food that requires time or temperature control for safety to limit infectious or toxigenic microorganisms and is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms; provided, however, time or temperature controlled for safety shall not include foods that have a pH level of four and six-tenths (4.6) or below or a water activity (aw) value of eighty-five one-hundredths (0.85) or less. Milk and milk products shall be considered Time-or-temperature-controlled-for-safety foods.

35:37-19-3. Sale and delivery requirements

(a) Non-time-or-temperature-controlled-for-safety homemade food products shall be sold:

(1) By the producer directly to the consumer, either in person or by remote means, including, but not limited to, the internet or telephone; or

(2) By a producer's designated agent or a third-party vendor, including, but not limited to, a retail or grocery store, farm, farm stand, farmers market, membership-based buying club, craft fair, or flea market, to the consumer; provided, the third-party vendor shall display a placard where homemade food products are displayed for sale with the following disclosure: "This product was produced in a private residence that is exempt from government licensing and inspection. This product may contain allergens."

(b) Non-time-or-temperature-controlled-for-safety homemade food products shall be delivered:

(1) By the producer or producer's designated agent directly to the consumer or a third-party vendor; or

(2) By a third-party vendor or a third-party carrier, such as a parcel delivery service, to the consumer or a third-party vendor.

(c) Time-or-temperature-controlled-for-safety homemade food products shall be sold by the producer directly to the consumer, either in person or by remote means, including, but not limited to, the internet or telephone.

(d) Time-or-temperature-controlled-for-safety homemade food products shall be delivered by the producer directly to the consumer.

(e) Before a producer begins to produce and sell time-or-temperature-controlled-for-safety homemade food products and thereafter, the producer shall satisfactorily complete and maintain food safety training from a list of providers found on the Oklahoma Department of Agriculture, Food, and Forestry website, including the ServSafe Food Handler Training, approved by the Oklahoma Department of Agriculture, Food, and Forestry. Food safety training shall be available online or in person and shall not exceed eight (8) hours in length.

(f) Homemade food products that are packaged and distributed in interstate commerce shall be sold in accordance with federal law.

(g) The production date of a homemade food product shall be displayed where the product is sold directly to the consumer. If the product is prepared for delivery by a third-party, the production date shall be located on the food package or on a card included with the food package.

(h) All products sold under Section 5-4.1 et seq. of Title 2 of the Oklahoma Statutes.

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 the definition of poultry and the exemptions; provides a new definition for adulterated food; provides updated definitions for homemade food products; and provides updated requirements for the sale and delivery of homemade food products.

(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 definitions for produce safety, those who wish to apply for poultry producer exemptions, and those who wish to produce, sale and resale 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 definitions for produce safety, those who wish to apply for poultry producer exemptions, and those who wish to produce, sale and resale homemade food products through the Department's Food Safety program 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:**

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 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 November 6, 2023.

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

CHAPTER 40. MARKET DEVELOPMENT

SUBCHAPTER 25. OKLAHOMA WINTER STORM GRANT PROGRAM

35:40-25-1. Purpose

The purpose of the Oklahoma Winter Storm Grant Program is to provide grants to incorporated municipalities to mitigate extreme purchase costs, extraordinary costs, or both, incurred by the incorporated municipality's owned or controlled unregulated utility affected by the extreme weather event that began February 7, 2021. The Oklahoma Department of Agriculture, Food, and Forestry shall operate the Oklahoma Winter Storm Grant Program in a manner consistent with the provisions of Section 11-11 et seq. of Title 2 of the Oklahoma Statutes.

35:40-25-2. Definitions

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

"Department" means the Oklahoma Department of Agriculture, Food, and Forestry, or its designee.

"Extraordinary costs" means costs incurred by an incorporated municipality's unregulated utility related to the extreme weather that occurred beginning February 7, 2021, and ending February 21, 2021, including but not limited to, fuel-related storage and associated costs, emergency compressed or liquified natural gas supplies, contracts for services providing additional pressurization on lines and transportation pipeline penalties. "Extraordinary costs" shall not include fees for late payments or "Extreme purchase costs", as defined in this section.

"Extreme purchase costs" means expenses incurred for the purchase of fuel, purchased power, natural gas commodity, or any combination thereof, whether at spot pricing, index pricing, or otherwise with delivery beginning February 7, 2021, and ending February 21, 2021.

"Unregulated utility" means any utility, as defined in this section, which is not subject to the regulatory jurisdiction of the Corporation Commission with respect to its rates, charges, and terms and conditions of service.

"Utility" means any person or entity doing business in this state that furnishes natural gas or electric current to its customers located at an address within this state and within the service area of the utility.

35:40-25-3. Applicant eligibility

Each applicant shall meet the following requirements:

(1) The incorporated municipality shall show proof of extreme purchase costs, extraordinary costs, or both, incurred by the incorporated municipality's owned or controlled unregulated utility;

(2) The population of the incorporated municipality shall be no greater than three thousand five hundred (3,500) persons according to the most recent Federal Decennial

Census or most recent annual estimate of the population by the United States Census Bureau; and

(3) The incorporated municipality's owned or controlled unregulated utility shall have had no costs mitigated through securitization as provided by Sections 9070 through 9081 of Title 74 of the Oklahoma Statutes.

35:40-25-4. Evaluation criteria

(a) The Department shall evaluate applications and determine the priority of applicants after considering the following criteria:

(1) The implications of the extraordinary costs and extreme purchase costs regarding an incorporated municipality's solvency; and

(2) The amount of an incorporated municipality's extraordinary costs and extreme purchase costs on a per capita basis.

(b) The Department shall have discretion to award funding based upon its findings and upon its level of available funds.

35:40-25-5. Application requirements

Each applicant for program funds shall:

(1) Execute documents as required by the Department;

(2) Submit the incorporated municipality's energy bills for the five (5) years preceding and ending on February 7, 2021;

(3) Agree to prioritize the use of awarded grant funds for extreme purchase costs when requesting grant funds for both extreme purchase costs and extraordinary costs; and

(4) Submit all required documents electronically to the Oklahoma Department of Agriculture, Food, and Forestry.

RULE IMPACT STATEMENT

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 40. MARKET DEVELOPMENT

(A) PURPOSE OF THE PROPOSED RULE:

The purpose of the Oklahoma Winter Storm Grant Program is to provide grants to incorporated municipalities to mitigate extreme purchase costs, extraordinary costs, or both, incurred by the incorporated municipality's owned or controlled unregulated utility affected by the extreme weather event that began February 7, 2021. The Oklahoma Department of Agriculture, Food, and Forestry shall operate the Oklahoma Winter Storm Grant Program in a manner consistent with the provisions of Section 11-11 et seq. of Title 2 of the Oklahoma Statutes.

(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 primarily affect incorporated municipalities that owned or controlled unregulated utilities affected by the extreme weather event that began February 7, 2021.

(C) PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULE:

Incorporated municipalities that owned or controlled unregulated utilities affected by the extreme weather event that began February 7, 2021 shall benefit from the proposed rules.

(D) DESCRIPTION OF THE PROBABLE IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS:

Incorporated municipalities that intend to apply for grants to mitigate extreme purchase costs, extraordinary costs, or both, incurred by the incorporated municipality's owned or controlled unregulated utility affected by the extreme weather event that began February 7, 2021, shall be permitted to do so.

(E) PROBABLE COST AND BENEFITS TO AGENCY; SOURCE OF REVENUE FOR IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULE:

The source of revenue for the implementation and enforcement of the proposed rule shall be provided by the February 2021 Winter Storm Grant Revolving Fund.

(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:

If incorporated municipalities apply and qualify for grants to mitigate certain costs, a positive economic impact for those municipalities 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 rule amendments are consistent with the Oklahoma Legislature's declaration that establishment of the February 2021 Winter Storm Grant Revolving Fund and direction of the Oklahoma Department of Agriculture, Food, and Forestry to develop a program for distribution of grant funds is "necessary for the public peace, health or safety" and that an emergency is declared to exist. See SB 1091 (approved by the Governor on May 26, 2022).

(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 6, 2023.

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

CHAPTER 45. WATER QUALITY STANDARDS IMPLEMENTATION PLAN

SUBCHAPTER 1. WATER QUALITY STANDARDS IMPLEMENTATION PLAN

35:45-1-1. Section I - Statutory authority, definitions, standards, jurisdiction, beneficial uses and protocols

(a) Subsection B, 27A O.S. Supp 1998, Section 1-1-202 (enacted through Senate Bill 549), mandates that each state environmental agency shall promulgate, by July 1, 2001, a Water Quality Standards Implementation Plan (WQSIP) for its jurisdictional areas of environmental responsibility specifying how the agency utilizes and enforces the Oklahoma Water Quality Standards for surface water and groundwater. The Implementation Plan must be promulgated in compliance with the Administrative Procedures Act and pursuant to Section 1-1-202. After initial promulgation, each state environmental agency must review its plan at least every three years thereafter to determine whether revisions to the plan are necessary. All references to sections are to the original plan document, which is available from the Oklahoma Department of Agriculture.

(b) The Water Quality Standards Implementation Plan is to include eight elements for each jurisdictional area:

(1) Program Compliance with Antidegradation Requirements and Protection of Beneficial Uses - General description of the processes, procedures and methodologies utilized to ensure that programs within the agency's jurisdictional areas of environmental responsibility comply with anti-degradation standards and lead to maintenance of water quality where beneficial uses are supported, removal of threats to water quality where beneficial uses are in danger of not being supported, and restoration of water quality where beneficial uses are not being supported.

(2) Application of Use Support Assessment Protocols (USAP)-Procedures to be utilized in the application of use support assessment protocols (found at OAC 785:46 252:740, Subchapter 15) to make impairment determinations.

(3) Description of Programs Affecting Water Quality - Description of the surface water and/or groundwater quality-related components of pertinent programs within each jurisdictional area.

(4) Technical Information and Procedures - Technical information, databases, and procedures to be utilized by the Oklahoma Department of Agriculture, ~~(ODA)~~ Food, and Forestry (ODAFF) in the WQSIP.

(5) Integration of WQSIP into ~~ODA~~ ODAFF activities - Describe how the Water Quality Standards Implementation Plan is and will be integrated into the water quality management activities of the agency, including rules, program area policies and guidance, and standardized methods of conducting business.

(6) Compliance with Mandated Statewide Water Quality Requirements - Describe how ~~ODA~~ ODAFF is or will be complying with mandated statewide requirements affecting water quality developed by other state environmental agencies, including, but not limited to, total maximum daily load (TMDL) development, nonpoint source (NPS) pollution prevention programs, Oklahoma Water Quality Standards (OWQS), OWQS implementation procedures, and the Continuing Planning Process (CPP) document.

(7) Public and Interagency Participation - Summary of written comments and testimony received relative to all public meetings held for the purpose of providing public participation relating to the WQSIP, and new rules related to the WQSIP.

(8) Evaluation of Effectiveness of Agency Activities - Describe methods and means to evaluate the effectiveness of activities conducted pursuant to the WQSIP to achieve Water Quality Standards (WQS).

35:45-1-2. Pertinent definitions, abbreviations, and acronyms

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

"303" means Section 303 of the CWA, which requires states to review and, as necessary, revise their water quality standards at least every three (3) years.

"402" means Section 402 of the CWA, which establishes the National Pollutant Discharge Elimination System (NPDES).

"AgPDES" means Agriculture Pollutant Discharge Elimination System, as authorized by Oklahoma Agriculture Pollutant Discharge Elimination System Act, 2 O.S. § 2A-1 et seq.

"Animal Feeding Operation" means a lot or facility where the following conditions are met:

(A) animals have been, are, or will be stabled or confined and fed or maintained for a total of ninety (90) consecutive days or more in any twelve-month period, and

(B) crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

"Animal Waste" means animal excrement, animal carcasses, feed wastes, process wastewaters, or any other waste associated with the confinement of animals from an animal or poultry feeding operation.

"Appendix F" means Appendix F of the OWQS, OAC ~~785:45~~252:730, which has the statistical values of historic data for TDS, chloride, and sulfate for streams in most of the watersheds across the state.

"Background" means the ambient level of a pollutant relative to a potential source of pollution, and which is characterized by upstream (to the source being investigated) concentrations of a pollutant for surface waters or hydraulically upgradient concentrations for groundwater.

"BMP" means Best Management Practices, which are schedules of activities, prohibitions on practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state.

"CAFO" means Concentrated Animal Feeding Operation, as defined by the Oklahoma Concentrated Animal Feeding Operations Act, 2 O.S. § 20-41(B)(11).

"CPP" means the Continuing Planning Process document, submitted by the state to EPA, which describes present and planned water quality management programs and the strategy used by the State in conducting these programs. Information on how the state utilizes the WQS and WQS Implementation Criteria are contained in this document.

"CWA" means the federal Clean Water Act and amendments.

"CWAC" as defined in OAC ~~785:45~~252:730, means Cool Water Aquatic Community, a subcategory of the beneficial use category "Fish and Wildlife Propagation" where the water quality, water temperature and habitat are adequate to support warm water intolerant climax fish communities and includes an environment suitable for the full range of cool water benthos.

"DEQ" means the Oklahoma Department of Environmental Quality.

"Discharge" means any release by leaking, pumping, pouring, emitting, emptying, dumping, escaping, seeping, leaching, or other means of release of wastes or wastewater except

as otherwise provided in Section ~~9-204.1~~ 20-6 of Title 2 of the Oklahoma Statutes. The term discharge shall not include a distribution of waste water into an irrigation system for the purpose of land application of waste to property, provided the waste does not leave the land application area.

"EPA" means the federal Environmental Protection Agency.

"Fish and Wildlife Propagation" means the WQS beneficial use designation for promoting fish and wildlife propagation for the fishery classifications of HLAC, WWAC, CWAC, and Trout Fishery (Put and Take).

"Fish Consumption" means the WQS beneficial use designation for the protection of human health for the consumption of fish.

"HLAC" as defined in OAC ~~785:45252:730~~, means Habitat-Limited Aquatic Community, a subcategory of the beneficial use category "Fish and Wildlife Propagation" where the water chemistry or habitat are not adequate to support a warm water aquatic community (WWAC).

"HQW" means High Quality Water, defined as those waters of the state which possess existing water quality which exceeds that necessary to support the propagation of fishes, shellfishes, wildlife, and recreation in and on the water. HQWs must receive special protection against degradation.

"Land Application" means the application of substances including animal waste and other substances to the land, at approved rates within the capacity of the land or crops.

"LMFO" means a Licensed Managed Feeding Operation, as defined by the Oklahoma Swine Feeding Operations Act at 2 O.S. § 20-3(B)(18).

"MDL" means the Method Detection Limit and is defined as the minimum concentration of an analyte that can be measured and reported with 99% confidence that the analyte concentration is greater than zero. MDL is dependent upon the analyte of concern.

"NOI" means Notice of Intent.

"Nonpoint Source" means a source of pollution without a well defined point of origin or a single identifiable source such as an outfall pipe, often involving overland flow of pollutants with storm water or subsurface flow of pollutants with groundwater over a wide area.

"NPDES" means the National Pollutant Discharge Elimination System, as authorized by Section 402 of the CWA.

"Nutrient-Limited Watershed" means a watershed of a water body that is designated as nutrient limited in the most recent Oklahoma Water Quality Standards.

"Nutrient-Vulnerable Groundwater" means groundwater that is designated nutrient-vulnerable in the most recent Oklahoma Water Quality Standards.

"OAC" means Oklahoma Administrative Code.

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

"ORW" means Outstanding Resource Water, defined as a water of the state that constitutes an outstanding resource or is of exceptional recreational or ecological significance. ORWs must receive special protection against degradation.

"O.S." means Oklahoma Statutes.

"OWRB" means the Oklahoma Water Resources Board.

"PBCR" means Primary Body Contact Recreation, a WQS beneficial use designation.

"Plan" means the Water Quality Standards Implementation Plan, or portion thereof, promulgated by ODAFF in this chapter for the programs that affect water quality within ODAFF's jurisdictional areas of environmental responsibility.

"Point Source" means any discernible, confined and discrete conveyance from which pollutants are or may be discharged such as a discharge pipe (see also definition in OAC ~~785:45252:730~~).

"Poultry Feeding Operation" means a property or facility where the following conditions are met:

- (A) poultry have been, are or will be confined and fed or maintained for a total of forty-five (45) days or more in any twelve-month period,
- (B) crops vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the property or facility, and
- (C) producing over ten (10) tons of poultry waste per year.

"PPP" means Pollution Prevention Plan and is a written plan to control the discharge of pollutants that has been prepared in accordance with industry acceptable engineering and management practices.

"PQL" means Practical Quantitation Limit and is defined as 5 times the MDL. The PQL represents a practical and routinely achievable detection limit with high confidence.

"PPWS" means Public and Private Water Supply, a WQS beneficial use designation for the protection of human health for the consumption of water and consumption of fish and water.

"Remediation" means the removal of pollutants from soil or water by absorption, excavation, pumping, natural attenuation, biological, chemical, or other means or combination of methods.

"Scenic River" means a river or stream so designated pursuant to the Wild and Scenic Rivers Act. A scenic river is automatically considered an ORW.

"Silviculture" means the art and science of controlling the establishment, composition, and growth of forests.

"SWS" means Sensitive Public and Private Water Supply.

"TMDL" means Total Maximum Daily Load, a written, pollutant-specific and water body-specific plan establishing pollutant loads for point and nonpoint sources, incorporating safety reserves, to ensure that a specific water body will attain and maintain the water quality necessary to support existing and designated beneficial uses. The term also includes consideration of increases in pollutant loads.

"UAA" means Use Attainability Analysis, an investigation by ~~OWRB~~ of whether a WWAC or CWAC subcategorization (for the Fish and Wildlife Propagation beneficial use) is reasonably attainable.

"USAP" means Use Support Assessment Protocols, defining how sampling and other data shall be used to determine whether or not a water body is meeting its beneficial uses, as defined at OAC ~~785:462~~52-740, Subchapter 15.

"USDA NRCS" means the United States Department of Agriculture Natural Resources Conservation Service.

"USGS" means the United States Geological Survey.

"Waters of the State" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, storm sewers and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through or border upon this state or any portion thereof, and shall include under all circumstances the waters of the United States which are contained within the boundaries of, flow through or border upon this state or any portion thereof. Provided, waste treatment systems, including treatment ponds and lagoons designed to meet federal and state requirements other than cooling ponds as defined in the federal Clean Water Act or promulgated rules, are not waters of the state.

"WQS (or OWQS)" means the Oklahoma Water Quality Standards, established pursuant to Section 303 of the CWA, and which serve as goals for water quality management planning and benchmark criteria for the ~~NPDES/OPDES~~ AgPDES permitting process. Water Quality Standards consist of beneficial use classifications for navigable waters, water quality

criteria to support those uses, and an antidegradation policy statement. Oklahoma's Water Quality Standards are found at OAC ~~785:45~~252:730.

"WQSIP" means Water Quality Standards Implementation Plan.

"WWAC" as defined in OAC ~~785:45~~252:730, means Warm Water Aquatic Community, a subcategory of the beneficial use category "Fish and Wildlife Propagation" where the water quality and habitat are adequate to support climax fish communities and includes an environment suitable for the full range of warm water benthos.

35:45-1-3. General statement of policy; responsibility for WQSIP document

(a) As a general statement of agency policy, programs and activities within ODAFF will be managed to protect the beneficial uses of the state's waters and to maintain water quality standards. In addition, when problems are identified, the agency will assist landowners, the industry, and other agencies with technical recommendations on remediation efforts using appropriate practices.

(b) The Assistant Director with water quality program supervisory responsibilities and the Water Quality Staff Forester prepared the WQSIP for the Forestry Services Division. The Agricultural Environmental Management Services Division section was initially prepared by the ~~Division's~~ Professional Engineer. The Consumer Protection Services Division section was developed by the Water Quality Program Administrator. These individuals the three division directors will be are responsible for maintaining ~~distributing copies of~~ the final plan, ~~informing field offices and~~ updating the plan as necessary.

35:45-1-4. Pertinent water quality standards

(a) Pursuant to Section 303 of the CWA, Oklahoma's surface water quality standards are promulgated by the ~~OWRB ODEQ~~ at OAC ~~785:45~~252:730, Subchapter 5. Surface water quality standards are comprised of three elements:

(1) Beneficial uses, designated to apply to specific water bodies or defined water body segments, ~~as listed in Appendix A to OAC 785:45~~, generally address the goals of the CWA. Certain default beneficial uses are assumed for waters not listed in Appendix A until a UAA indicates otherwise. The subset of beneficial uses which address water quality are:

(A) Public and Private Water Supply (PPWS) (~~OAC 785:45-5-10~~);

(B) Fish and Wildlife Propagation (F&W) (~~OAC 785:45-5-12~~), according to one of four fishery subcategories:

(i) Habitat-Limited Aquatic Community (HLAC).

(ii) Warm Water Aquatic Community (WWAC).

(iii) Cool Water Aquatic Community (CWAC).

(iv) Trout Fishery (Put and Take) - Criteria used in the protection of F&W shall include DO, T0, pH, Oil and Grease, Bio Criteria, toxic substances, turbidity, and sediments.

(C) Agriculture (Ag) (~~OAC 785:45-5-13~~);

(D) Primary Body Contact Recreation (PBCR) (~~OAC 785:45-5-16~~);

(E) Secondary Body Contact Recreation (~~OAC 785:45-5-17~~); and

(F) Aesthetics (~~OAC 785:45-5-19~~).

(G) Fish Consumption (~~OAC 785:45-5-20~~).

(2) Numerical and narrative criteria (~~OAC 785:45-5~~) apply statewide. Numerical criteria are pollutant-specific and apply to a water body according to its beneficial uses ~~in accordance with OAC 785:45~~. Narrative criteria are generally referred to as "free from" prohibitions.

(3) Numerical salinity water quality standards are only for agricultural beneficial uses (irrigation and watering livestock). Stream segment averages of historic data for chlorides, sulfates, and TDS are available in Appendix F for most stream segments statewide. The WQS also allows for use of upstream/background data and data from surrounding streams instead of these averages if this data provides a more appropriate basis for setting standards for a specific stream (~~OAC 785:45-5-13(e) and (f)~~). However, for the protection of Agriculture use, neither long nor short term average concentrations of minerals shall be required to be less than 700 mg/l for TDS, nor less than 250 mg/l for either chlorides or sulfates (~~OAC 785:45-5-13 (g)~~).

(4) General Narrative Criteria for Minerals at ~~OAC OAC 785:45-5-9(a)~~ states that "Increased mineralization from other elements such as, but not limited to, calcium, magnesium, sodium, and their associated anions shall not impair any beneficial use," which ~~OWRB~~ ODEQ interprets as meaning that neither salinity nor other minerals shall be allowed to impair the PPWS, F&W, PBCR, and other beneficial uses listed for streams in the WQS.

(5) Excess sediment impacts may be addressed through the numeric turbidity standards established for F&W. Heavy metal numerical WQS have been set by ~~OWRB~~ ODEQ for many beneficial uses.

(6) A water quality antidegradation policy, which applies statewide, and is consistent with the goals of the CWA, is found at ~~OAC 785:45, Subchapter 3. Antidegradation policy implementation is found at OAC 785:45-5-25 and OAC 785:46, Subchapter 13.~~ Levels of protection are as follows:

- (A) Attainment or maintenance of existing or designated beneficial uses.
- (B) Maintenance quality of improved waters.
- (C) Maintenance of beneficial uses and water quality in higher quality waters and sensitive public and private water supplies of the state, as well as in waters of ecological or recreational significance.
- (D) Prohibition of any water quality degradation from new point source discharges or increased loading from existing discharges into waters designated as outstanding resource waters and scenic rivers.

(7) Special provision at ~~OAC 785:45-5-29~~ - Delineation of Nutrient Limited Watershed (NLW) areas specifies spatial limitations of these areas that require additional protection.

(b) Although not required by any provision of the CWA, the OWRB has promulgated groundwater quality standards for the state at OAC 785:45, Subchapter 7. Groundwater quality standards and protection are comprised of seven elements:

(1) Beneficial uses, designated to apply to the groundwater situated below the surface of the dedicated land identified in a groundwater use permit or right issued by the OWRB. Such beneficial uses are defined at OAC 785:45-7-3(b) and may include, but are not limited to:

- (A) Public and Private Water Supply (including municipal use and domestic use).
- (B) Agriculture for irrigation or livestock watering.
- (C) Industrial and municipal process and cooling water.

(2) Classifications, ~~found at OAC 785:45-7-3(a)~~ are as follows:

(A) Class I (Special Source Groundwater): Groundwaters where exceptional water quality exists, where there is an irreplaceable source of water, where it is necessary to maintain an outstanding groundwater resource or where the groundwater is ecologically important. This class of groundwater is considered to be very vulnerable to contamination and includes:

- (i) All groundwater located beneath the watersheds of surface waters designated as Scenic Rivers in ~~Appendix A to OAC 785:45~~.
- (ii) Groundwater located underneath lands located within the boundaries of areas with waters of ecological and/or recreational significance ~~listed in Tables 1 and 2 of Appendix B to OAC 785:45~~.
- (iii) Groundwater located underneath lands within the boundaries of a state-approved wellhead or source water protection area for public water supply.

(B) Class II (General Use Groundwater): Groundwaters capable of being used as a drinking water supply with conventional or no treatment methods, with the potential for multiple beneficial uses, and with mean TDS levels < 3000 mg/l.

(C) Class III (Limited Use Groundwater): Poor quality groundwaters due to natural conditions, which require extensive treatment for use as a drinking water source, with mean TDS levels of ≥ 3000 mg/l and < 5000 mg/l.

(D) Class IV (Highly Mineralized Treatable Groundwater): Very poor quality groundwaters due to natural conditions, which require extensive treatment for use as a drinking water source, having mean TDS levels ≥ 5000 mg/l but < 10000 mg/l.

(3) Beneficial use designations: Class I and II, not identified in Appendix H of OAC ~~785:45~~252:730, shall be public and private water supply, agriculture, and Industrial and municipal process and cooling water. Class III and IV, not identified in Appendix H of OAC ~~785:45~~252:730, shall be agriculture, and Industrial and municipal process and cooling water. Appendix H specifies beneficial uses for groundwater contained in the appendix.

(4) Vulnerability level: Certain hydrogeologic basins are classified according to its vulnerability to contamination and identified as Very Low, Low, Moderate, High and Very High per Table 1 of Appendix D of OAC ~~785:45~~252:730.

(5) Nutrient-vulnerable groundwater: Certain groundwaters are subject to further designation as nutrient-vulnerable groundwater per Table 2 of Appendix D.

(6) Criteria for protection of groundwater quality:

(A) Groundwaters of the state shall be maintained to prevent alteration of their chemical properties by harmful substances not naturally found in groundwater.

(B) Protective measures shall be at all times maintained which are adequate to preserve and protect existing and designated groundwater basin classifications and which are sufficient to minimize the impact of pollutants on groundwater quality.

(C) The concentration of any synthetic substances or any substances not naturally occurring in that location shall not exceed the PQL in an unpolluted groundwater sample using laboratory technology.

(D) Prescriptive measures shall be developed by each state environmental agency and included in their WQSIP, and they shall be implemented to prevent-groundwater pollution caused by any person or entity within their jurisdictional area of environmental responsibility.

(E) Each state environmental agency shall consider the hydrogeologic basin's vulnerability level and designated nutrient vulnerable groundwaters for surface activities with the potential to contaminate groundwater.

(7) Criteria for corrective action:

(A) Groundwater that has been polluted as a result of human activities shall be restored to a quality that will support uses designated in OAC ~~785:45~~252:730-7-

3(b) for that groundwater or meet the requirements of a site specific remediation plan approved by the appropriate state environmental agency.

(B) Measures to remedy, control or abate groundwater pollution caused by any person shall be the responsibility of each state environmental agency within its jurisdictional areas of environmental responsibility as prescribed in the agency's WQSIP.

35:45-1-7. Animal waste programs

(a) Compliance with antidegradation requirements and protection of beneficial uses.

(1) This area of jurisdiction includes the licensing or registering of CAFOs, LMFOs and poultry operations. These programs include land application of animal or poultry waste. Discharges of animal and poultry waste into waters of the State are statutorily prohibited. As a result, no discharge shall result from the operation of the facility. CAFOs and LMFOs may only discharge in the event of a 25 year/24 hour rainfall event and are required to construct the waste retention structures to contain the 25 year/24 hour rainfall event; except for new LMFO (swine), poultry and veal calves CAFOs, which are required to have waste management and storage facilities to contain all waste and runoff for 100 year/24 hour rainfall event. In addition, OAC 35:17-3-14(b)(3)(C) allows a facility which has been properly designed, constructed, and operated and is in danger of an imminent overflow due to chronic or catastrophic rainfall to discharge wastewaters to land application sites for filtering prior to discharging to surface or groundwaters of the state.

(2) Beneficial uses that could potentially be impaired by improper land application, leakage from animal waste lagoons, or breach of a lagoon could impact both ground water and surface water. Beneficial uses that could be affected include, but are not limited to: (1) Fish and Wildlife Propagation may be impaired by lack of DO due to nutrient loading. (2) Public and Private Water Supplies may be impaired by fecal coliform, algae growth, and nutrient loading. (3) Recreation may be impaired by pathogens. (4) Aesthetics may be impacted by nutrient loading. All of these impairments could be caused by unauthorized discharges to waters of the state.

(3) Violations of the "no discharge" standard for CAFOs, LMFOs, and poultry feeding operations result in enforcement actions. These actions integrate corrective ~~or~~ and remedial activities that can include clean-up activities and restoration activities. Remediation requirements are determined on a case-by-case basis. The Department shall assess and review all approved remediation requirements to provide technical standards for future remediations.

(4) Education programs are also required for all poultry waste applicators, operators of poultry feeding operations, and employees of LMFOs. Employees responsible for ~~CAFO~~ permit compliance must be annually trained or informed of any information pertinent to the proper operation and maintenance of the facility and waste disposal.

(5) OAC ~~785:46252:730-13-5~~ 785:45252:730-13-5 provides that no new or increased point source discharges are allowed in water bodies and watersheds designated by the WQS as an ORW or Scenic River. Waters that have been classified as HQW and SWS according to OAC ~~785:45252:730-5-25~~ 785:45252:730-5-25 (c) (3) and (4) are prohibited from having any new point source discharge(s) of any pollutant or increased load or concentration of specified pollutants from existing point sources discharge(s), except as provided in the regulations. CAFOs are by definition point sources. In addition, all nonpoint sources shall implement best management practices in watersheds designated as ORW. However, if nonpoint sources are identified as significantly contributing to the degradation of a water body designated as an ORW, conservation plans shall be developed in subwatersheds. Finally, LMFOs

established after August 1, 1998 applying for a new CAFO license or expansion after March 9, 1998 shall not be located within three (3) miles of any designated scenic river area or within one (1) mile of a water body designated as ORW.

(6) LMFO's that are located in nutrient-limited watersheds and or nutrient-vulnerable groundwaters as designated by the OWRB ~~must~~ shall meet current ~~lagoon~~ waste retention structure liner criteria according to Title 2, O.S. § 20-12(H)(3), and meet land application nutrient loading rate requirements per OAC 35:17-3-14(b)(4).

(7) Poultry feeding operations that are located in nutrient limited watersheds or nutrient vulnerable groundwaters as designated by OWRB shall meet soil and litter testing and litter application rate requirements per 2 O.S. § 10-9.7(E).

(b) Application of USAP - In the event ODAFF engages in surface water monitoring, USAP as adopted by OWRB will be consulted to determine if beneficial uses have been impaired. All animal waste programs require no discharges from facilities, therefore USAP is not applicable. Any discharge will be a violation of the license and subject to enforcement action and possible fines.

(c) Description of programs affecting water quality.

(1) The Agricultural Environmental Management Services (AEMS) Division of ODAFF is responsible for the review of applications for animal feeding operations that meet size and type requirements. The division also investigates complaints received by the Department regarding animal waste issues that could affect water quality.

(2) In December 2012, ~~The~~ the EPA authorized ODAFF to perform NPDES permitting pursuant to the CWA. ODAFF reviews NOIs for authorizations pursuant to a general permit and reviews applications for individual permits. AgPDES activities include CAFOs, pesticides, silviculture, and storm water at agricultural facilities.

(3) The animal waste program, pesticide program, fertilizer program, and forestry management program can affect groundwater and surface water beneficial uses if facilities are not designed and operated properly. The application process is targeted at removing the possible threat of pollution to the waters of the State by not allowing any discharge to surface water, except in limited circumstances, by promoting recycle and beneficial reuse of wastewater, by not permitting any hydrologic connection between waste storage facility and groundwater, by preparing or reviewing animal waste management plans, nutrient management plans, or equivalent documents, emphasizing best management practices and conservation measures, and by routine inspections of regulated CAFOs, LMFOs, and poultry feeding operations.

(d) Technical information and procedures for implementation.

(1) All programs are involved in regulating the animal and poultry feeding operations to assure that facilities meet the minimum requirements. The programs evaluate facility location, watershed, soils, groundwater data, stream data, flood information, water samples, manure and litter samples, and other pertinent information. The application process evaluates the potential effects of the proposed operation on the waters of the State to insure ~~that~~ both groundwater and surface water are not polluted. Potential impacts on beneficial uses designated in water quality standards will be further evaluated during the license application process to assist elimination of the threat to nutrient vulnerable groundwaters and nutrient impaired waters. Data collected from monitoring wells or soil test reports submitted by regulated operations will be evaluated to assess the potential impact on waters of the state. If noncompliance with operating requirements is found, technical assistance or appropriate enforcement measures will be used to bring regulated facilities into compliance with state laws and rules.

(2) The CAFO and poultry programs utilize a number of databases, software programs and models for implementation. These include: stream gage data from the U.S. Geological Survey; ~~Microsoft Access database and Microsoft Excel spreadsheet software~~ SQL databases for water quality data information; ArcInfo and ArcView GIS, MapWindows+MMP Tool software data analysis and mapping; precipitation and evaporation data from the National Weather Service and Oklahoma Climatological Survey; maps and hydrologic information from the U.S Geological Survey, Oklahoma Geological Survey, and Oklahoma Water Resources Board; USDA NRCS Soil Surveys and Technical Standards; OSU Oklahoma Cooperative Extension Service Fact Sheets; and other tools, software, and other guidance related to manure management planning developed by EPA, universities, and professional organizations, the MMP (Manure Management Plan) developed by Purdue University. Models may be obtained or developed to analyze information and data to assist in meeting WQS as necessary.

(e) Integration of WQSIP into water quality management activities - ODAFF rules for these programs require compliance with WQS pursuant to 2 O.S. § 20-10 (B) (4) (c) and 20-48(B)(4)(c) ensure that watersheds and groundwater are adequately protected pursuant to 20-10 (B)(4)(h) and 20-48(B)(4)(f). Future changes in Water Quality Standards may require additional rules and policies. Amendments will be made as necessitated by those changes.

(f) Compliance with mandated statewide water quality requirements - ODAFF will comply with other statewide water quality requirements by participating in the update of WQS, and in updates of the state's Continuing Planning Process document, Integrated Report, water quality management plan and other planning efforts. ODAFF will continue to participate in the Nonpoint Source Working Group and will cooperate with the Oklahoma Conservation Commission and others involved in NPS pollution prevention programs. ODAFF will participate in the TMDL process as resources permit, and will make use of the Beneficial Use Monitoring Program data compiled in cooperation with other state environmental agencies to modify its water quality program as necessary.

(g) Public and interagency participation.

(1) ODAFF interacts with other environmental agencies through the Water Quality Standards Implementation Advisory Committee. The agencies review and comment on each agency's plan and consult with each other as needed.

(2) Public participation requirements of the Oklahoma Administrative Procedures Act are followed in promulgating rules that integrate water quality standards into these program areas.

(h) Evaluation of effectiveness of agency activities.

(1) The effectiveness of these programs in the protection of designated beneficial uses for designated stream segments will be evaluated utilizing the following processes: review and integration of CAFO monitoring well sampling, soil analysis, stream gage data from the U.S. Geological Survey, U.S. Army Corps of Engineers, Oklahoma Conservation Commission, and Oklahoma Water Resources Board, and all other available data.

(2) The swine LMFO monitoring well sampling and laboratory analysis project began in 2000. All LMFOs with more than 1,000 swine animal units were required by Senate Bill 1175 of 1998 [Title 2 O.S. § 20-12(F)] to install and maintain a leak detection system or sufficient monitoring wells both upgradient and downgradient around the perimeter of each waste retention structure. ODAFF is required by Title 2 O.S. § 20-12(F) to sample and laboratory analyze the samples from the LMFO monitoring wells at least annually. The LMFO monitoring well samples are required in Title 35, Chapter 17, Subchapter 3 of the CAFO Permanent Rules [35:17-3-11.(6)(H)] to be sampled and laboratory analyzed for electrical conductivity, pH, ammonium-nitrogen, nitrate-nitrogen, total phosphorus

and fecal coliform bacteria. The information and data collected under this program is published in a report annually by ODAFF.

~~(3) Groundwater samples from other wells are also taken from LMFO facilities during each annual inspection by ODAFF environmental specialists. These samples and some surface water samples are analyzed in accordance with procedures and protocol developed by ODAFF. Water well samples are also taken and analyzed on a voluntary basis from residents located in the vicinity of animal feeding operations. The latter sampling project has been in place since 1992.~~

(4) In the event groundwater problems are identified, ODAFF will take steps to identify the sources of the problems. If CAFOs or LMFOs are identified as the source, appropriate remediation activities will be implemented.

35:45-1-8. Pesticide program

(a) ODAFF regulates spills and misuse of pesticides associated with facilities and activities of licensed pesticide applicators, homeowners and farm applications. This includes improper storage and disposal of pesticides and pesticide containers.

(b) Compliance with antidegradation requirements and protection of beneficial uses.

(1) All pesticide programs and regulatory activities require no degradation of surface or groundwater by pesticide use. Pesticide labels contain warnings that the pesticide could contaminate surface and groundwater if misused or improperly disposed. ODAFF regulates spills and misuse of pesticides associated with facilities and activities of licensed pesticide applicators, homeowners and farm applications. This includes improper storage and disposal of pesticides and pesticide containers.

(2) Beneficial uses that could be impaired by improper handling and application of pesticides include Fish and Wildlife Propagation, Private and Public Water Supply, Recreation, and Agriculture. The potential for pesticides to enter ground water and surface water exist and is supported by the fact that several water bodies are classified as impaired by pesticides on the current 303(d) list. Pesticide residue in fish could render them unfit for human consumption. Antidegradation is automatically implemented because the presence of pesticide in any water is a violation of the standards no matter how the water body is classified.

(3) Recent spills and newly located polluted sites are remediated by the responsible party, or by the use of EPA superfund monies to the extent necessary to meet ODAFF goals. Pesticide remediation brings any impaired surface or groundwater back to the quality prior to the pesticide spill, including restoration of all beneficial uses pursuant to the WQS. Procedures for groundwater protection are covered in the ODAFF Generic Pesticide Management Plan in Groundwater.

(4) The certification of persons to become pesticide applicators involves training and testing of the individual in the safe use and handling of pesticides. Training includes information on how to read a pesticide label, pesticide storage, pesticide container disposal and proper procedures to follow in the event of a pesticide spill. The protection of surface water and groundwater is an integral part of the certification process.

(c) Application of USAP - The procedures for pesticide monitoring are outlined in the Quality Assurance Project Plan, the pesticide operating procedures and the Generic Pesticide Management Plan in Groundwater. USAP will be utilized in assessing beneficial uses of all monitored surface waters. USAP does not apply to groundwater at this time.

(d) Description of programs affecting water quality.

(1) The Consumer Protection Services Division of ODAFF is responsible for the licensing and certifying of pesticide applicators. ODAFF registers all pesticides

distributed in the state and has authority to restrict the use of pesticides to prevent unreasonable risk to the quality of Oklahoma's water.

(2) Under the Generic Pesticide Management Plan, ODAFF will develop and implement point and non-point source prevention measures, participate in relaying use information, carry out monitoring, develop and implement response to detection, keep records of action taken and provide progress reports to EPA.

(3) ODAFF will also develop and maintain a statewide agriculture chemical database and a pesticide concerns list in regard to water quality standards.

(4) ODAFF licenses all commercial applicators of pesticides and requires the certification of private applicators before they can use restricted pesticides. When spills or other environmental problems, resulting from current or historic practices, are found, ODAFF's goal is to prevent impairment of the surface water and groundwaters of the state. This includes preventing significant risk to humans, livestock, or ecological receptors from inhalation of fumes, direct contact, or ingestion.

(5) The Consumer Protection Services Division assists AEMS Division with disseminating information related to AgPDES permit requirements for pesticides applicators and with reviewing permit applications or notices of intent submitted by permit applicators.

(6) Pesticide labels contain warnings that the pesticide could contaminate surface and groundwater if misused or improperly disposed. All ODAFF activities related to pesticides are geared toward maintaining WQS. Specific programs include the following:

- (A) Certification of individuals and the licensing of companies to apply pesticides;
- (B) Investigation of pesticide spills and misuse;
- (C) Inspection of pesticide producer establishments;
- (D) Inspection of pesticide applicator facilities for proper pesticide storage;
- (E) Audit records of restricted use pesticide dealers;
- (F) Conduct private applicator record keeping inspections;
- (G) Monitor pesticide application at new construction sites;
- (H) Requiring backflow prevention devices on chemigation wells, as well as requiring every applicator of pesticides to employ an appropriate method to prevent the backflow of spray materials during filling, mixing, or application operations. The method shall include, but not be limited to, the employment of a check valve or similar in-line device, or positive mechanical method, such as an air gap, designed to insure ~~that~~ backflow shall not occur;
- (I) Monitoring the irrigation tailwater return flow on several large container nurseries on the Illinois River in Cherokee County; and
- (J) Groundwater monitoring.

(e) Technical information and procedures for implementation - The pesticide program utilizes a number of databases, software programs and models for implementation. These include: Microsoft Access database and Microsoft Excel spreadsheet software for water quality data information; ArcInfo and ArcView GIS software data analysis and mapping; and pesticide leaching models from EPA to map and analyze data. EPA standards are used to calibrate laboratory equipment when analyzing for specific pesticides. Many cases will require samples to be taken. The Pesticide Inspectors Manual covers the procedures for taking, sealing and shipping pesticide samples to the lab. Sampling results become a part of the complaint file. Notice of violations, stop work orders, informal or formal hearings, cleanup orders, fines and referral to US EPA for federal prosecution are some of the enforcement actions available to the ODAFF in the event a water quality or other violation is found. The Oklahoma Combined Pesticide Law and

Rules set the standards used in the storage, use and disposal of pesticides, pesticide containers, and pesticide waste.

(f) Integration of WQSIP into water quality management activities - Future changes in WQS may require additional rules and policies. Amendments will be made as necessitated by those changes.

(g) Compliance with mandated statewide water quality requirements - Compliance with statewide water quality requirements is the primary goal of the pesticide certification program, pesticide facility inspections, pesticide spill and misuse investigations and pesticide monitoring programs.

(h) Public and interagency participation.

(1) ODAFF has been charged with the regulatory responsibilities of agricultural activities that could impact the WQS of the waters of Oklahoma. The "Agricultural Resources Protection and Management Operation" document outlines standard operating procedures to fulfill this charge for the present and provides guidance for future needs. This document contains no new or modified authorities not subject to legislative approval.

Should subsequent events call for law, rule or regulation changes or additions, these shall be subject to approvals in accordance with the APA or the legislative process.

(2) Public participation requirements of the APA were followed in promulgating rules that integrate water quality standards into this program area. Section III of this document contains a summary of comments received and responses relating to the promulgation of ODAFF's WQSIP.

(i) Evaluation of effectiveness of agency activities - The effectiveness of the pesticide programs will be evaluated through the routine monitoring of surface water and groundwater. Special monitoring may be initiated if potential sources of contamination are identified. USAP will assist in dictating surface water monitoring.

RULE IMPACT STATEMENT

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

CHAPTER 45. WATER QUALITY STANDARDS IMPLEMENTATION PLAN

(A) **PURPOSE OF THE PROPOSED RULE:**

The proposed rule amendments replaces outdated citations with updated citations referenced throughout the subchapter; updates references to the Oklahoma Department of Agriculture, Food, and Forestry; update the parties responsible for WQSIP document; removes groundwater samples from the evaluation of effectiveness of agency activities for animal waste programs.

(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 Water Quality Standards Implementation Plan. No cost impacts have been received to date.

(C) **PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULE:**

Persons relying on the Department's Water Quality Standards Implementation Plan 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 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 14, 2023.

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

CHAPTER 55. COMMERCIAL PET BREEDERS AND ANIMAL SHELTERS

SUBCHAPTER 1. LICENSING

35:55-1-4. License application

(a) The Oklahoma Department of Agriculture, Food, and Forestry shall issue a license to each commercial pet breeder or animal shelter operator who:

- (1) Meets the requirements of the Commercial Pet Breeders and Animal Shelter Licensing Act;
- (2) Applies to the Department on the form prescribed by the Department; and
- (3) Pays the required ~~fee~~ license and prelicense inspection fees.

(b) A commercial pet breeder or animal shelter operator shall obtain a separate license for each facility where breeding or shelter animals are kept. A separate license shall be issued for each facility of the commercial pet breeder or animal shelter operator, whether or not the facility has the requisite number of animals at each facility.

(c) If a single facility is shared by more than one person, each person shall be required to become individually licensed if the requisite number of animals are housed at the facility, unless all animals are combined on a single license.

(d) An applicant applying for a license shall submit a completed license application signed under oath containing the following information:

- (1) Name, mailing address, telephone number, and email address, if any, of the applicant;
- (2) Name, if different, physical address and telephone number of the facility, including driving directions from the nearest municipality;
- (3) Name, address, telephone number, and email address, if any, of the operator of the facility, if different from the owner;
- (4) If the applicant is an entity, association, trust, or corporation, the name and address of each member with an ownership of ten percent (10%) or more in the facility;
- (5) If the applicant is an entity, the name, address, telephone number, and email address, if any, of the Oklahoma registered agent;
- (6) The sales tax identification number of the commercial pet breeder, unless the commercial pet breeder only sells animals wholesale or the tax exempt identification number of the animal shelter;
- (7) A list of the date, subject matter, and court or government entity for any individual required to be disclosed by this section for each of the following:
 - (A) Has ever been convicted of, or entered a plea of guilty or no contest, to any felony, or any crime involving animal cruelty, abuse, or neglect;
 - (B) Has ever received any adverse ruling from any court of competent jurisdiction or any administrative tribunal involving honesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence, or incompetence in a matter related to commercial pet breeding, or cruelty to animals;
 - (C) Has ever had an application for a license, registration, certificate, or endorsement related to pet breeding or animal care denied or rejected by any state or federal licensing authority in Oklahoma or another state;
 - (D) Whether any commercial pet breeder licensing board, kennel regulation board, animal shelter licensing authority, or similar agency or organization has ever revoked or suspended a license, registration, certificate, or endorsement;

- (E) Has ever surrendered a license, registration, certificate, or endorsement to the Board or any state or federal commercial pet breeder or kennel licensing authority or animal shelter licensing authority, whether located in Oklahoma or elsewhere;
 - (8) Affidavit of Lawful Presence in the United States of America, as provided under 56 O.S. § 71;
 - (9) A notarized statement swearing that the information submitted on the application is true and correct;
 - (10) State the total number of animals owned by the commercial pet breeder on the date of application and identify how many of the animals are intact female animals, males, and juveniles or state the capacity of the animal shelter;
 - (11) The date of commencement of operations at that location; and
 - (12) Any other relevant information required by the Board.
- (e) If an applicant submits an incomplete application or the Department requests additional information, the Department shall notify the applicant that the application is incomplete and identify the information on the application that is incomplete or needs additional information. The applicant ~~may~~ shall submit additional information within twenty (20) working days to supplement and complete the application. If the applicant does not respond to the request for additional information in a timely manner, the application shall be denied.
- (f) An application may be withdrawn from consideration by the applicant at any time.
- (g) Any commercial pet breeder or animal shelter operator whose application is denied due to failure to submit information in a timely manner or who withdrew the application may submit a new application and appropriate fees.
- (h) Any license commercial pet breeder that intends to expand their operation's capacity to a higher level of license category shall submit notice to the Department within ten (10) days of the expansion.
- (1) The notification shall be submitted on the application form prescribed by the Department.
 - (2) Payment shall be included with the application to pay the increase in license category due to the expansion and a prelicense inspection fee.

35:55-1-6. Inspections

- (a) The Oklahoma Department of Agriculture, Food, and Forestry may contract with a local veterinarian licensed by the state, other state agency or any other qualified person to conduct or assist in an initial prelicense inspection and annual inspections.
- (b) The Department shall arrange for an inspection at a facility prior to issuance of an initial license for that facility.
- (1) The Department shall not issue a license to any person until the Department receives an initial prelicense inspection report from the inspector in a format approved by the Department certifying that the facility meets the requirements of the Commercial Pet Breeders and Animal Shelter Licensing Act.
 - (2) Prior to the initial prelicense inspection, each applicant shall pay to the Department a nonrefundable inspection fee.
 - (3) Failure of the owner or operator to be present for the arranged inspection without twenty-four (24) notice shall result in a second prelicense inspection fee to be prior to arranging another inspection.
- (c) The Department, at least annually, shall arrange for the inspection of each licensed facility. The inspection shall be conducted during normal business hours and the commercial pet breeder, animal shelter operator, or a representative shall be present during the inspection.

(d) The inspector shall submit an inspection report to the Department not later than ten (10) days after the date of the inspection on a form prescribed by the Department and provide a copy of the report to the commercial breeder, animal shelter operator, or the representative.

(1) The inspection report shall include an itemized list of violations, if any, and may include recommendations for correction.

(2) A copy of the inspection report shall be sent to the commercial pet breeder or animal shelter operator who shall have thirty (30) calendar days to correct any deficiencies.

(3) Following the thirty (30) calendar days to correct deficiencies, the inspector may conduct an unannounced follow-up inspection during normal business hours, or may request documentation of corrections to the Department within fourteen (14) calendar days of the request.

(4) During the prelicense or expansion prelicense inspection, if observed enclosures do not meet the requested capacity, the license or expansion shall not be approved. Prior to scheduling a follow-up inspection, and additional prelicense fee shall be due.

35:55-1-8. Fees

The Board shall charge the following nonrefundable license or renewal fees:

(1) One (1) to ten (10) intact female animals: \$125.00

(2) Eleven (11) to twenty (20) intact female animals: \$200.00

(3) Twenty one (21) to fifty (50) intact female animals: \$350.00

(4) Fifty one (51) to one hundred (100) intact female animals: \$500.00

(5) One hundred and one (101) or more intact female animals: \$650.00

(6) Animal shelter: \$200.00

(7) If the commercial pet breeder or animal shelter operator submits a renewal application and fee after the expiration date, the commercial pet breeder or animal shelter operator shall pay double the renewal fee as a late charge and the filing of a late application shall be deemed a violation.

(8) Prelicense inspection fee for new or expanding: \$100.

35:55-1-9. Annual report

~~(a) Not later than February 1 of each year, a commercial pet breeder shall submit to the Oklahoma Department of Agriculture, Food, and Forestry an annual report on a form prescribed by the Department setting forth the number of adult intact female animals held at the facility at the end of the prior year and such other information regarding the commercial pet breeder's prior year's operations as required by the Department.~~

~~(1) Number of animals at the facility on December 31;~~

~~(2) Number of animals sold during the previous calendar year;~~

~~(3) Number of animals added to the facility during the previous calendar year;~~

~~(4) Number of animals removed from the facility during the previous calendar year;~~

~~(5) Number of mortalities during the previous calendar year;~~

~~(6) List of type, date of occurrence and number of mortalities due to any animal disease at the facility during the previous calendar year; and~~

~~(7) Number of animals exchanged or refunded from the facility.~~

~~(b) The commercial pet breeder shall keep a copy of the annual report at the facility of the commercial pet breeder and, on request, make the report available to the authorized agent of the Board, a local animal control authority, or any other inspector designated by the Department.~~

~~(c) A license holder that has more than one facility shall keep separate records and file a separate report for each facility.~~

SUBCHAPTER 3. STANDARDS OF CARE

35:55-3-2. Watering

(a) If potable water is not continually available to the animals, it shall be offered to the animals as often as necessary to ensure their health and wellbeing, but not less than three (3) times daily for at least one (1) hour each time, unless restricted by the attending veterinarian.

(b) For animals housed in non-temperature controlled environments, potable water shall be continuously available when temperatures reach ninety-five (95) degrees Fahrenheit, unless restricted by the attending veterinarian.

SUBCHAPTER 7. RECORDKEEPING AND SALES

35:55-7-1. Records

(a) A commercial pet breeder or animal shelter operator shall maintain a separate health record for each animal in the facility documenting the healthcare of the animal that shall include:

- (1) The breed, sex, color, and identifying marks of the animal; and
- (2) A record of all inoculations, medications, and other veterinary medical treatment received by the animal while in the possession of the commercial pet breeder or animal shelter operator.

(b) The commercial pet breeder or animal shelter operator shall make the health records available on request to the Oklahoma Department of Agriculture, Food, and Forestry, an authorized agent of the Board, a local animal control authority, or any other inspector designated by the Department.

(c) Commercial pet breeders or animal shelter operators shall create, maintain, and keep records of operations consisting of a list describing all pets that have been born, housed or kept in the facility at any time, and stating the disposition of all pets listed. In describing the disposition of any pet, the commercial pet breeder and animal shelter operator shall record the following:

- (1) If the animal was sold or otherwise transferred, the manner and location of the sale, transfer, or other disposition, and the recipient's name and address, if the commercial pet breeder or animal shelter operator shipped or otherwise transported the animal to the recipient;
- (2) That the pet is still on the premises, or
- (3) If the pet died while at the facility, the date of death and cause of the death.

(d) Commercial pet breeders and animal shelter operators shall keep the following records of all sales or disposition of pets owned or has housed at the licensed facility:

- (1) A description of each sold or disposed pet; and
- (2) With respect to each pet list the date of transaction, the location of the transaction, whether the commercial pet breeder or animal shelter operator transported or shipped the pet for delivery, including the location of the recipient, the age of the pet, and the name and address of the recipient.

(e) Commercial pet breeders and animal shelter operators shall keep at their facility records of all pets purchased or otherwise acquired at any time during the preceding two (2) years, which record shall include the date of the transaction, the name and address of the seller, and a description of each pet received, including the age of each pet at the time it was acquired by the commercial pet breeder or animal shelter operator.

(f) Commercial pet breeders and animal shelter operators, if applicable, shall keep at their facility breeding records, which, for each adult female animal shall list the dates she was bred, the dates on which her puppies or kittens were born, and the number of puppies or kittens in each litter.

(g) For each pet, commercial pet breeders and animal shelter operators shall keep copies of documents evidencing the information that shall be contained in the pet breeder's records, including veterinary reports, sales receipts, and shipping invoices.

(h) A commercial pet breeder and animal shelter operator shall maintain all records for a minimum of two (2) years.

(i) Sanitization records shall include the date of sanitization and the method used.

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 requires that an applicant pay a prelicense inspection fee; adds language for a licensee to provide the Department notice if they intend to expand their operation; requires a second prelicense fee to be paid if an owner or operator fails to show for the arranged inspection; adds language that gives owner or operator additional time to fix deficiencies from inspection report; adds a prelicense inspection fee; revokes the annual report requirements; adds language for temperature and water requirements for animals housed in non-temperature controlled environments; and adds language for sanitation records.

(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 requiring prelicense inspections and watering requirements.

(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 14, 2023.