

OKLAHOMA STATUTES

TITLE 2. AGRICULTURE

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§2-1259. Repealed by Laws 1989, c. 258, § 1, eff. Dec. 31, 1990.	750
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§2-1261. Repealed by Laws 1989, c. 258, § 1, eff. Dec. 31, 1990.	750
§2-1301-101. Renumbered as Section 16-1 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.	750
§2-1301-102. Renumbered as Section 16-2 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.	750
§2-1301-103. Renumbered as Section 16-3 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.	750
§2-1301-104. Renumbered as Section 16-4 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.	750
§2-1301-105. Renumbered as Section 16-5 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.	750
§2-1301-105.1. Renumbered as Section 16-6 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.	750
§2-1301-106. Renumbered as Section 16-7 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.	750
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§2-1603. Renumbered as § 5-1.1 of this title by Laws 2001, c. 146, § 254, emerg. eff. April 30, 2001.	756

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§2-1706. Renumbered as § 8-85.6 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001.	756
§2-1707. Renumbered as § 8-85.7 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001.	756
§2-1708. Renumbered as § 8-85.8 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001.	756
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§2-1753. Renumbered as § 9-144 of this title by Laws 2001, c. 146, § 256, emerg. eff. April 30, 2001.	757
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§2-1753.2. Renumbered as § 9-146 of this title by Laws 2001, c. 146, § 256, emerg. eff. April 30, 2001.	757
§2-1754. Renumbered as § 9-147 of this title by Laws 2001, c. 146, § 256, emerg. eff. April 30, 2001.	757
§2-1761. Renumbered as § 5-81 of this title by Laws 2001, c. 146, § 258, emerg. eff. April 30, 2001.	757
§2-1762. Renumbered as § 5-82 of this title by Laws 2001, c. 146, § 258, emerg. eff. April 30, 2001.	757
§2-1763. Renumbered as § 5-83 of this title by Laws 2001, c. 146, § 258, emerg. eff. April 30, 2001.	757
§2-1764. Renumbered as § 5-84 of this title by Laws 2001, c. 146, § 258, emerg. eff. April 30, 2001.	757
§2-1765. Renumbered as § 5-85 of this title by Laws 2001, c. 146, § 259, emerg. eff. April 30, 2001.	757

§2-1766. Renumbered as § 5-86 of this title by Laws 2001, c. 146, § 259, emerg. eff. April 30, 2001.	757
§2-1767. Renumbered as § 5-87 of this title by Laws 2001, c. 146, § 259, emerg. eff. April 30, 2001.	757
§2-1768. Renumbered as § 5-88 of this title by Laws 2001, c. 146, § 259, emerg. eff. April 30, 2001.	757
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§2-1801. Repealed by Laws 1997, c. 7, § 2, emerg. eff. July 1, 1997.	758
§2-1802. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.	758
§2-1803. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.	758
§2-1804. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.	758
§2-1805. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.	758
§2-1806.1. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.	758
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§2-1808. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.	758
§2-1809. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.	758
§2-1810. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.	758
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§2-1850.1. Renumbered as § 18-240 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001.	758
§2-1850.2. Renumbered as § 18-241 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001.	758
§2-1850.3. Renumbered as § 18-242 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001.	759
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§2-1850.5. Renumbered as § 18-244 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001.	759
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§2-1850.10. Renumbered as § 18-249 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001.	759
§2-1850.11. Renumbered as § 18-250 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001.	759
§2-1850.12. Renumbered as § 18-251 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001.	759
§2-1901. Renumbered as § 11-20 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.	759

§2-1902. Renumbered as § 11-21 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.	759
§2-1903. Renumbered as § 11-22 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.	759
§2-1904. Renumbered as § 11-23 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.	759
§2-1905. Renumbered as § 11-24 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.	759
§2-1906. Renumbered as § 11-25 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.	759
§2-1907. Renumbered as § 11-26 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.	760
§2-1908. Renumbered as § 11-27 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.	760
§2-1950.1. Repealed by Laws 2005, c. 83, § 3, emerg. eff. April 19, 2005.	760
§2-1950.2. Repealed by Laws 2005, c. 83, § 3, emerg. eff. April 19, 2005.	760
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§2-1950.11. Repealed by Laws 2013, c. 118, § 25, eff. Nov. 1, 2013.	761
§2-2001. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.	761
§2-2002. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.	761
§2-2002. Tuition waivers for farmers and ranchers.	761
§2-2003. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.	761
§2-2003. Qualifications for retraining.	761
§2-2004. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.	762
§2-2005. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.	762
§2-2005. Administration of program - Rules - Advisory committee.	762
§2-2006. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.	762
§2-2006. Quota system.	762
§2-2007. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.	763
§2-2011. Renumbered as § 11-35 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.	763
§2-2012. Renumbered as § 11-36 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.	763
§2-2013. Renumbered as § 11-37 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.	763
§2-2014. Renumbered as § 11-38 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.	763
§2-2015. Renumbered as § 11-39 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.	763
§2-2016. Renumbered as § 11-40 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.	763
§2-2017. Renumbered as § 11-41 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.	763
§2-2018. Renumbered as § 11-42 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.	763
§2-2021. Renumbered as § 11-80 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.	763
§2-3001. Renumbered as § 5-91 of this title by Laws 2001, c. 146, § 262, emerg. eff. April 30, 2001.	763
§2-3002. Renumbered as § 5-92 of this title by Laws 2001, c. 146, § 262, emerg. eff. April 30, 2001.	763
§2-3003. Renumbered as § 5-93 of this title by Laws 2001, c. 146, § 262, emerg. eff. April 30, 2001.	763

§2-3004. Renumbered as § 5-94 of this title by Laws 2001, c. 146, § 262, emerg. eff. April 30, 2001.	763
§2-3010. Renumbered as § 5-100 of this title by Laws 2001, c. 146, § 263, emerg. eff. April 30, 2001.	763
§2-3011. Renumbered as § 5-101 of this title by Laws 2001, c. 146, § 263, emerg. eff. April 30, 2001.	763
§2-3012. Renumbered as § 5-102 of this title by Laws 2001, c. 146, § 263, emerg. eff. April 30, 2001.	764
§2-3021. Renumbered as § 5-111 of this title by Laws 2001, c. 146, § 264, emerg. eff. April 30, 2001.	764
§2-3022. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.	764
§2-3030. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.	764

§2-1-1. Short title.

This act shall be known as the Oklahoma Agricultural Code.
Laws 1970, c. 260, § 19, emerg. eff. April 22, 1970. EC=1>

§2-1-2. State Department of Agriculture - Establishment - Composition.

The State Department of Agriculture shall consist of the State Board of Agriculture, the divisions, and other positions and offices as established by law and by the Board.

Added by Laws 1955, p. 1, art. 1, § 1, emerg. eff. June 3, 1955.

Amended by Laws 2000, c. 243, § 1, emerg. eff. May 24, 2000.

§2-1-3. Definitions.

For the purposes of the Oklahoma Agricultural Code, unless the context indicates otherwise:

1. "Authorized agent" means a person who has been authorized by the State Board of Agriculture to act on behalf of the Board in making investigations, inspections, performing other services, or doing any particular act or acts which have been vested by the Oklahoma Agricultural Code in the Board. A written or printed commission signed by the President of the Board shall be proof that the holder has lawful authority to act on behalf of the Board in implementing the Oklahoma Agricultural Code;

2. "Board" means the State Board of Agriculture;

3. "Code" means the Oklahoma Agricultural Code;

4. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry and its employees, officers, and divisions. Whenever the name "Department of Agriculture" appears in any law, contract or other document, it shall be deemed to refer to the Oklahoma Department of Agriculture, Food, and Forestry;

5. "Director" means the Director of a division established in the Oklahoma Department of Agriculture, Food, and Forestry;

6. "License" means a written document issued by the Board granting authority to a person to engage in a business, occupation, or activity;

7. "Livestock" or "animals" means any cattle, bison, horses, sheep, goats, asses, mules, swine, domesticated rabbits, and chickens, turkeys, and other domesticated fowl, and any animal or bird in captivity;

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

9. "Permit" means a written document issued by the Board giving consent for a person to engage in an activity;

10. "Person" means the state, any municipality, political subdivision, institution, individual, public or private corporation, partnership, association, firm, company, public trust, joint-stock company, trust, estate, state or federal agency, other governmental entity, or any other legal entity or an agent, employee, representative, assignee or successor thereof;

11. "President" means the President of the State Board of Agriculture. The President of the State Board of Agriculture shall also be designated as the Commissioner of Agriculture;

12. "Producer" means any person planting, raising, growing, or harvesting agricultural products;

13. "Quarantine" means a written document issued by the Board to restrict the movement of animals, birds, plants, or agricultural commodities into or out of a specified area for the control or prevention of diseases or pests; and

14. "Stop sale order" or "stop use order" means a written or printed order signed by the President or authorized agent of the Board, prohibiting the sale, offering for sale, exposure for sale, or use of any agricultural product, article, device, service, or commodity covered by the Oklahoma Agricultural Code.

Added by Laws 1955, p. 1, art. 1, § 3, emerg. eff. June 3, 1955.

Amended by Laws 1965, c. 177, § 1; Laws 1972, c. 89, § 1, emerg. eff. March 28, 1972; Laws 1992, c. 296, § 1, emerg. eff. May 26, 1992; Laws 1996, c. 138, § 1, emerg. eff. May 1, 1996; Laws 2000, c. 243, § 2, emerg. eff. May 24, 2000; Laws 2002, c. 173, § 2, emerg. eff. May 6, 2002; Laws 2003, c. 3, § 1, emerg. eff. March 19, 2003; Laws 2005, c. 292, § 1, eff. July 1, 2005; Laws 2019, c. 173, § 1, eff. Nov. 1, 2019.

NOTE: Laws 2002, c. 187, § 1 repealed by Laws 2003, c. 3, § 2, emerg. eff. March 19, 2003.

§2-1-4. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-2-1. Membership - Appointment and qualifications - Vacancies.

A. 1. The State Board of Agriculture shall be the Board of Agriculture created by Section 31 of Article VI of the Oklahoma Constitution. The Board shall consist of five (5) members appointed by the Governor, with the advice and consent of the Senate. Four of such members shall be appointed from within and represent the agricultural district established by subsection B of this section. One member shall be appointed from the state at large.

2. The members shall be farmers who have:

- a. at least five (5) years practical experience during the ten (10) years immediately preceding their appointment, and
- b. lived on and operated a farm after reaching the age of twenty-one (21) years.

B. For the purpose of appointments to the Board, four agricultural districts are hereby created and shall consist of the following counties:

DISTRICT

COUNTIES

NO.

- 1.....Atoka, Bryan, Choctaw, Coal, Haskell, Hughes, Johnston, Latimer, LeFlore, Marshall, McCurtain, McIntosh, Muskogee, Okfuskee, Okmulgee, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Seminole and Sequoyah.
- 2.....Adair, Cherokee, Craig, Creek, Delaware, Kay, Lincoln, Logan, Mayes, Noble, Nowata, Oklahoma, Osage, Ottawa, Pawnee, Payne, Rogers, Tulsa, Wagoner and Washington.
- 3.....Alfalfa, Beaver, Blaine, Cimarron, Custer, Dewey, Ellis, Garfield, Grant, Harper, Kingfisher, Major, Roger Mills, Texas, Woods and Woodward.
- 4.....Beckham, Caddo, Canadian, Carter, Cleveland, Comanche, Cotton, Garvin, Grady, Greer, Harmon, Jackson, Jefferson, Kiowa, Love, McClain, Murray, Stephens, Tillman and Washita.

C. One member of the Board shall be appointed from each district.

D. 1. On the effective date of this act, each district established by subsection B of this section shall be represented by the current board member position as follows:

- a. the board member position currently representing District 5 shall represent the new District 1,
- b. the board member position currently representing District 2 shall represent the new District 2,

- c. the board member position currently representing District 1 shall represent the new District 3, and
- d. the board member position currently representing District 4 shall represent the new District 4.

2. The board member position currently serving District 3 shall be terminated.

3. Except as otherwise provided in this subsection, all board members serving on the effective date of this act shall serve the remainder of the term of office to which the board member was originally appointed. Thereafter, successor board members shall be appointed for terms of four (4) years. The at-large member shall serve a term coterminous with that of the Governor.

4. In case of vacancy caused by the removal, death, resignation, or disability of any member, the Governor shall appoint a new member from the same district for which a vacancy was vacated to serve for the unexpired term.

Added by Laws 1955, p. 2, art. 2, § 1, emerg. eff. June 3, 1955.

Amended by Laws 1965, c. 480, § 1, emerg. eff. July 14, 1965; Laws 2000, c. 243, § 3, emerg. eff. May 24, 2000; Laws 2003, c. 242, § 8, emerg. eff. May 23, 2003.

§2-2-2. Compensation - Meetings.

Members of the State Board of Agriculture shall receive actual expenses of travel pursuant to the State Travel Reimbursement Act. The Board shall meet a minimum of eight (8) times per year in regular session but not more than six (6) days in any calendar month. Special meetings of the Board may be held at the time and place as set by the President or at the time and place petitioned for by three members of the Board.

Added by Laws 1955, p. 2, art. 2, § 2, emerg. eff. June 3, 1955.

Amended by Laws 1977, c. 241, § 1; Laws 1985, c. 178, § 1, operative July 1, 1985; Laws 2000, c. 243, § 4, emerg. eff. May 24, 2000; Laws 2012, c. 7, § 1, emerg. eff. April 2, 2012.

NOTE: Laws 2012, c. 133, § 1 repealed by Laws 2013, c. 15, § 1, emerg. eff. April 8, 2013.

§2-2-3. Officers.

A. The at-large member appointed by the Governor, pursuant to Section 2-1 of this title, shall be the President of the State Board of Agriculture and shall serve at the pleasure of the Governor.

B. The President shall be the executive officer of the Board and, in the absence of the Board, shall, subject to approval of the Board, perform all of the duties imposed by law.

C. The Board shall elect a Secretary who shall not be a member of the Board. The Board shall fix the duties of the person appointed.

Added by Laws 1955, p. 2, art. 2, § 3, emerg. eff. June 3, 1955.
Amended by Laws 2000, c. 243, § 5, emerg. eff. May 24, 2000; Laws
2003, c. 242, § 9, emerg. eff. May 23, 2003.

§2-2-4. Powers of Board.

A. The State Board of Agriculture shall have the power to:

1. Adopt and prescribe the use of a seal, which shall be in the custody of the Secretary of the Board;
2. Promulgate rules necessary, expedient, or appropriate to the performance, enforcement, or carrying out of any of the purposes, objectives, or provisions of the Oklahoma Agricultural Code;
3. Initiate and prosecute administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code;
4. Appoint authorized agents to make inspections or investigations and to perform other services for the Board or any division of the Oklahoma Department of Agriculture, Food, and Forestry;
5. Consolidate any of the divisions established by the Oklahoma Agricultural Code, transfer any of the functions or activities to another division, place additional functions or activities in a division, establish new divisions, and create new or additional positions in the Department, when conducive to a more efficient administration and enforcement of laws pertaining to agriculture;
6. Sell, exchange, or dispose of property;
7. Have jurisdiction over all matters affecting animal industry, animal health, and animal quarantine;
8. Issue stop-sale and stop-use orders and quarantines;
9. Employ, appoint, or contract and fix the duties and compensation of the director of each division of the Department and other personnel, either on a full-time, part-time, or contractual basis, as deemed necessary by the Board;
10. Fix the qualifications of the personnel in the Department;
11. Accept and use grants of money and other property from any source;
12. Advise, consult, cooperate, and enter into agreements or contracts with persons as defined in the Oklahoma Agricultural Code;
13. Coordinate with the federal government and other states on matters pertaining to agriculture;
14. Revoke, suspend, or deny for up to one (1) year, any license, permit, or charter issued by the Board if the Board finds any violations of the Oklahoma Agricultural Code or any rule of the Board;
15. Adopt a master plan and promulgate rules for the protection of state-owned and private forestry, grazing, and other lands from damage by fire and for suppressing fires on lands. In carrying out the master plan the Board is authorized to enter into contractual

agreements with the federal government, local political subdivisions of the state, individuals, private organizations, companies, and corporations for protection and for the suppression of fires and to expend funds as available for these services. To effectuate the purposes of the Oklahoma Agricultural Code, the Board is authorized to enter into contractual agreements with private landowners for the protection and suppression of fires, provided that the private landowners reimburse the Board for actual expenses incurred in the protection and suppression of fires on privately owned lands;

16. Have jurisdiction over all matters affecting agriculture as contained and set out in the Oklahoma Agricultural Code, which have not been expressly delegated to another state or federal agency and be responsible for fully implementing and enforcing the laws and rules within its jurisdictional areas of environmental responsibility.

a. The Department of Environmental Quality shall have environmental jurisdiction over:

- (1) commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mill, and other agricultural products,
- (2) slaughterhouses, but not including feedlots at these facilities, and
- (3) aquaculture and fish hatcheries, including, but not limited to, discharges of pollutants and storm water to waters of the state, surface impoundments and land application of wastes and sludge, and other pollution originating at these facilities.

b. Facilities storing grain, feed, seed, fertilizer, and agricultural chemicals that are required by federal National Pollutant Discharge Elimination System (NPDES) regulations to obtain a permit for storm water discharges shall only be subject to the jurisdiction of the Department of Environmental Quality with respect to storm water discharges;

17. Have jurisdiction over all matters affecting the importation, health, and quarantining of exotic livestock;

18. Prescribe forms of application, certification, licenses, charters, and other forms and blanks as may be necessary to carry out the provisions of the Oklahoma Agricultural Code;

19. Stagger throughout the year the renewal dates for any licenses or permits issued by the Department pursuant to the provisions of the Oklahoma Agricultural Code by notifying licensees in writing of the expiration and renewal date being assigned to the licensee and permittee and by making an appropriate adjustment in the fee charged for the license or permit;

20. Establish and collect fees for licenses, permits, charters, and services provided. The fees shall be promulgated in accordance with the Administrative Procedures Act and shall be fair and equitable to all parties concerned;

21. Establish planting and harvesting seasons for the purpose of meeting the maximum driving and on-duty time exemptions set forth in the National Highway System Designation Act of 1995. The Board shall notify the United States Secretary of Transportation of the seasons;

22. Fix and adopt official standards for grading and classifying any agricultural commodity, meat, or meat product prepared, produced, or distributed in Oklahoma;

23. Promulgate rules, make investigations, and conduct hearings for the purpose of making inspection compulsory on any agricultural commodity and designate the shipping points where compulsory inspection applies;

24. Inspect agricultural commodities, at any time, upon request of any financially interested party or when necessary and to issue certificates showing the quality and condition of the commodities at the time of the inspection;

25. Grade meat or meat products upon the request of any packing plant in Oklahoma. The packing plant shall be required to pay the cost of services, including the compensation and expenses of personnel employed to perform the actual grading;

26. Apply to the district court for a temporary or permanent injunction or any other remedy restraining any person from violating the Oklahoma Agricultural Code;

27. Extend and implement the powers and provisions granted by the Oklahoma Agricultural Code to all programs administered by the Department regardless of whether the statutes creating the program are codified in this title;

28. Increase its efforts to ensure the safety and quality of food and food products for wholesalers and retail sales in this state and shall include, but not be limited to, inspections of retailers and wholesalers to ensure compliance with all federal and state certification standards;

29. Exercise all incidental powers which are necessary and proper to implement and administer the purposes of the Oklahoma Agricultural Code;

30. Accept upon behalf of the Department any gift or donation of property, including but not limited to monetary gifts;

31. Promulgate rules regarding prescribed burning and smoke management;

32. Enter into written leases or lease-purchase agreements to acquire equipment, furnishings, supplies and other items necessary for the operation of the Oklahoma Department of Agriculture, Food, and Forestry Agriculture Laboratory;

33. Exercise all incidental powers and promulgate rules, procedures and forms which are necessary and proper to implement, administer and enforce the Oklahoma Scrap Metal Dealers Act;

34. Promulgate rules to ensure state control of any federal program relating to on-farm fruit and vegetable production inspections and regulation;

35. Develop a pollinator protection plan to promote the health of and mitigate the risks to honeybees and other managed pollinators;

36. Issue certificates of free sale for any products or items within the jurisdiction of the Oklahoma Department of Agriculture, Food, and Forestry; and

37. Prepare, in consultation with the Governor and the Attorney General, any necessary plans, reports or other documents for submission to the United States Department of Agriculture for approval of the Oklahoma Industrial Hemp Program.

B. 1. If upon inspection or investigation, or whenever the Oklahoma Department of Agriculture, Food, and Forestry determines that there are reasonable grounds to believe that any person is in violation of any part of the Oklahoma Environmental Quality Code which is the responsibility and jurisdiction of the Oklahoma Department of Agriculture, Food, and Forestry, any rule promulgated by the State Board of Agriculture, or of any order, permit, certificate, registration, charter, or license issued by the Board, the Department may give written notice to the alleged violator of the specific violation and of the alleged violator's duty to correct the violation immediately or within a set time period or both and that the failure to do so shall result in administrative fines or penalties.

2. Whenever the Department finds that an emergency exists requiring immediate action to protect the public health, welfare, or the environment, the President of the State Board of Agriculture may without notice or hearing issue an order, effective upon issuance, reciting the existence of an emergency and requiring that action be taken as specified in the order to meet the emergency. Any person to whom an order is directed shall comply immediately but may request an administrative enforcement hearing within fifteen (15) days after the order is served. The hearing shall be held by the Department within ten (10) days after receipt of the request. On the basis of the hearing record, the President of the Board shall sustain or modify the original order.

Added by Laws 1955, p. 2, art. 2, § 4, emerg. eff. June 3, 1955.

Amended by Laws 1965, c. 389, § 1; Laws 1967, c. 253, § 1, emerg.

eff. May 8, 1967; Laws 1993, c. 145, § 246, eff. July 1, 1993; Laws 1993, c. 324, § 43, eff. July 1, 1993; Laws 1994, c. 140, § 25, eff. Sept. 1, 1994; Laws 1996, c. 7, § 1, emerg. eff. March 19, 1996; Laws 1999, c. 413, § 10, eff. Nov. 1, 1999; Laws 2000, c. 243, § 6, emerg. eff. May 24, 2000; Laws 2001, c. 430, § 2, eff. Nov. 1, 2001; Laws

2002, c. 173, § 3, emerg. eff. May 6, 2002; Laws 2004, c. 100, § 1, eff. July 1, 2004; Laws 2007, c. 157, § 1, eff. Nov. 1, 2007; Laws 2008, c. 368, § 3, eff. July 1, 2008; Laws 2013, c. 230, § 1, eff. Nov. 1, 2013; Laws 2014, c. 25, § 1, eff. Nov. 1, 2014; Laws 2015, c. 20, § 1, eff. Nov. 1, 2015; Laws 2018, c. 199, § 1, eff. Nov. 1, 2018; Laws 2019, c. 91, § 1, emerg. eff. April 18, 2019.

§2-2-4a. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-2-4b. Reciprocal agreements.

A. The Commissioner of the State Department of Agriculture may enter into reciprocal agreements with:

1. A state agriculture agency or corresponding agency of another state, or with the person, board, officer, or commission authorized to act on behalf of that department or agency having jurisdiction affecting the importation, health, inspection, investigation, control, prevention, and eradication of contagious and infectious diseases of livestock; and

2. Another state or with the person, board, officer, or commission authorized to act on behalf of the other state relating to theft of livestock and to farming equipment and farm implements.

B. The Commissioner of the State Department of Agriculture shall, upon the written request of a state agriculture agency or other corresponding agency of any other state or of any person, board, officer, or commission of the state authorized to act for and on behalf of such department or corresponding agency, maintain actions in the courts of this state upon judgments and demands arising in the other state in the same manner and to the same extent that the actions by the Commissioner are authorized when arising in this state; provided, however, that the actions may be commenced and maintained only in those cases where the other state by appropriate legislation or by reciprocal agreement extends a like policy or approach to cases arising in the state.

Added by Laws 2001, c. 430, § 1, eff. Nov. 1, 2001.

§2-2-4c. Livestock policy implementation - Restriction on local orders, ordinances, and regulations.

A. Except as may otherwise be provided by law, the Oklahoma Department of Agriculture, Food, and Forestry shall be the state entity empowered to implement the policy of the state regarding the care and handling of livestock in this state.

B. No municipality, county, or other political subdivision of this state shall enact or enforce any order, ordinance, or regulation concerning the care and handling of livestock within its jurisdiction that is more restrictive than rules promulgated by the Oklahoma Department of Agriculture, Food, and Forestry concerning the care and

handling of livestock or Section 1685 of Title 21 of the Oklahoma Statutes. Ordinances or regulations by municipalities pertaining to land use or to human health or safety shall not be considered to constitute livestock care and handling.

Added by Laws 2009, c. 180, § 1, emerg. eff. May 12, 2009.

§2-2-4d. Temporary employees.

A. For the purposes of the State Board of Agriculture, seasonal employees employed by the Oklahoma Department of Agriculture, Food, and Forestry who work less than nine hundred ninety-nine (999) hours in a twelve-month period shall be considered temporary employees and shall be unclassified. The Department may employ seasonal employees throughout the calendar year.

B. The Department, in its annual budget request, shall include a summary of the use of project labor, which shall include the number of workers employed under the provisions of this section and the total wages paid to these employees.

Added by Laws 2015, c. 391, § 1, emerg. eff. June 4, 2015.

§2-2-4e. Confidentiality of electronic mail addresses.

The Oklahoma Department of Agriculture, Food, and Forestry shall keep confidential the electronic mail addresses provided to the Department through any online licensing program or similar electronic licensing system. The electronic mail addresses shall not be releasable pursuant to the Open Records Act absent an order by a court of competent jurisdiction.

Added by Laws 2016, c. 106, § 1, eff. Nov. 1, 2016.

§2-2-5. Official agency.

Except for matters which have been expressly delegated to another state agency, the State Board of Agriculture shall be the official agency of the State of Oklahoma in the relations of this state with the United States Department of Agriculture, any other federal agency, or any agency or person of this or another state on matters pertaining to sampling, inspection, and grading of agricultural products, and other regulatory matters in the field of agriculture.

Added by Laws 1955, p. 3, art. 2, § 5. Amended by Laws 1993, c. 145, § 247, eff. July 1, 1993; Laws 2000, c. 243, § 7, emerg. eff. May 24, 2000.

§2-2-6. Advisory or consulting committees - Appointment.

The State Board of Agriculture shall have authority to appoint advisory or consulting committees from the residents of the state who are interested in the various phases of agriculture, either in conservation, production, processing, regulation, or sale of agricultural products.

Added by Laws 1955, p. 3, art. 2, § 6. Amended by Laws 2000, c. 243, § 8, emerg. eff. May 24, 2000.

§2-2-7. Records and files as evidence - Enforcement of penalties and fines.

A. The records, files, and books of the State Board of Agriculture shall be receivable as evidence. The rules and orders of the Board, when published, shall be public notice and shall have the force and effect of law and be judicially noticed and considered. When orders of the Board consist of local rules or orders of quarantine, the order may be provable in the same manner as a return of service.

B. Administrative penalties, civil penalties, and other fines imposed pursuant to the provisions of the Oklahoma Agricultural Code shall be enforced in the same manner in which civil judgments may be enforced. For purposes of enforcement final orders shall be recorded in the office of the clerk of the district court of Oklahoma County and, upon such recording and application therefor, all appropriate writs and process shall be issued and shall be enforced by the court. Added by Laws 1955, p. 3, art. 2, § 7, emerg. eff. June 3, 1955. Amended by Laws 2000, c. 243, § 9, emerg. eff. May 24, 2000; Laws 2004, c. 60, §1, emerg. eff. April 6, 2004.

§2-2-8. Certified copies as evidence.

Duly-certified copies of any book, record, file, or proceeding, or any part, shall be competent as a matter of evidence in court when certified as a copy by the officer in charge of the book, file, record proceeding or part thereof or by the President or Secretary of the State Board of Agriculture.

Added by Laws 1955, p. 4, art. 2, § 8. Amended by Laws 2000, c. 243, § 10, emerg. eff. May 24, 2000.

§2-2-9. Cooperative contracts and agreements - Grading, sampling or inspection - Fees.

The State Board of Agriculture may enter into cooperative contracts and agreements with the United States Department of Agriculture, or any other federal or state agency, person, or firm providing for the grading, sampling, or inspection of processed or unprocessed foods, livestock, poultry, seeds, fruits, vegetables, or other agricultural commodities and products. The Board shall promulgate a schedule of fees to be charged and collected under the provisions of this section from the person or agency for whom the grading, sampling, or inspection service is rendered. The schedule of fees shall be filed in the office of the Secretary of State in accordance with the Administrative Procedures Act and be open to the public, and any subsequent change in the fees shall not be operative

until the change has been filed in the office of the Secretary of State pursuant to the Administrative Procedures Act. Added by Laws 1955, p. 4, art. 2, § 9. Amended by Laws 2000, c. 243, § 11, emerg. eff. May 24, 2000.

§2-2-10. Department of Agriculture Revolving Fund - Disbursements - Claims.

A. There is hereby created in the State Treasury a fund to be known as the State Department of Agriculture Revolving Fund. All monies, fees, and revenues collected, authorized, or received from any source by the State Board of Agriculture or any division, officer, or employee of the State Department of Agriculture pursuant to the provisions of the Oklahoma Agricultural Code or any law or agreement shall be deposited in the fund.

B. The fund shall be a continuing fund and shall be expended only for purposes specifically authorized and approved by a majority vote of the five (5) members appointed to and constituting the Board. The President, in the absence of the Board, may approve disbursements for lawfully authorized purposes. Expenditures from the fund shall be made only for defraying the costs and expenses of providing inspection, sampling, grading, and other services authorized by the Board for which fees or other monies have been paid into the fund and for which other monies are not available for the payment of services.

C. The Board shall have authority to employ and pay out of the fund inspectors, graders, or other personnel as needed or required to conduct authorized services.

D. All claims against the fund shall be paid only upon the majority approval of the Board, or the President in the absence of the Board.

Added by Laws 1955, p. 4, art. 2, § 10. Amended by Laws 1965, c. 380, § 1, emerg. eff. June 29, 1965; Laws 1977, c. 251, § 7, emerg. eff. July 15, 1977; Laws 2000, c. 243, § 12, emerg. eff. May 24, 2000.

§2-2-11a. Renumbered as § 5-9 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-2-11b. Renumbered as § 5-10 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-2-11c. Renumbered as § 5-11 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-2-12. Unpaid checks - Uncollectable debts.

A. For accounting purposes only, when any check has been received by the State Board of Agriculture, or the State Department of Agriculture, Food, and Forestry, and has remained unpaid for a

period of more than five (5) years, and the Board determines that the check cannot be collected, the amount of the check shall not be included or carried as an asset of the Board or any of its funds.

B. If all appropriate collection remedies have been exhausted in the collection of any debt owed to the Department, the debt shall be considered uncollectable. A list of all uncollectable debts and persons who owed the debts, shall be reported to the Oklahoma Legislature, the Office of Management and Enterprise Services, and the Oklahoma Tax Commission no later than May 1 of each calendar year.

Added by Laws 1955, p. 4, art. 2, § 12, emerg. eff. June 3, 1955.

Amended by Laws 2000, c. 243, § 16, emerg. eff. May 24, 2000; Laws 2010, c. 91, § 1, eff. Nov. 1, 2010; Laws 2012, c. 304, § 2.

§2-2-13A. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-2-13B. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-2-14. Authority to enter - Proper actions - Warrants.

A. The State Board of Agriculture or its authorized agents shall have the authority to enter any premises or mode of transportation during reasonable hours for the purpose of implementing the Oklahoma Agricultural Code or rules promulgated pursuant thereto.

B. The Board or its authorized agents shall have the authority to carry out all necessary and proper actions to determine compliance with the Oklahoma Agricultural Code including, but not limited to, conducting investigations, opening any bundle, package, or container of agricultural products, examining and making photocopies of records or documents, examining devices, and collecting and submitting samples for analysis.

C. If any person refuses, denies or interferes with any right of access, the Board shall have the right to apply to and obtain from a district court an administrative or other warrant as necessary to enforce the right of access and inspection.

Added by Laws 1965, c. 236, § 2, emerg. eff. June 17, 1965. Amended by Laws 2000, c. 243, § 17, emerg. eff. May 24, 2000.

§2-2-14.1. Seizure and forfeiture of property.

A. The Oklahoma Department of Agriculture, Food, and Forestry may take into possession any vehicle, implement of husbandry, farming equipment or farm implement and any and all livestock, or any part thereof, killed, taken, shipped, or possessed in violation of any provision of the Oklahoma Agricultural Code.

B. In addition to the property described in subsection A of this section, the following property is also subject to forfeiture pursuant to this section:

1. Property used in the commission of theft of livestock or in any manner to facilitate the theft of livestock;

2. The proceeds gained from the commission of theft of livestock;

3. Personal property acquired with proceeds gained from the commission of theft of livestock;

4. All conveyances, including aircraft, vehicles or vessels, and horses or dogs which are used to transport or in any manner to facilitate the transportation for the purpose of the commission of theft of livestock;

5. Any items having a counterfeit mark;

6. Any weapon possessed, used or available for use in any manner during the commission of a theft of livestock within the State of Oklahoma; and

7. Any computer and its components and peripherals, including but not limited to the central processing unit, monitor, keyboard, printers, scanners, software, and hardware, when it is used in the commission of theft of livestock in this state.

C. The property may be held as evidence until a forfeiture has been declared or a release ordered. Forfeiture actions under this section may be brought in district court by the Office of General Counsel of the Oklahoma Department of Agriculture, Food, and Forestry as petitioner. At the request of the Commissioner of Agriculture, the district attorney in the county of venue shall bring a forfeiture action under this section. Provided, in the event the Department or the district attorney elects not to file an action, or fails to file an action within ninety (90) days of the date of the seizure of the equipment, the property shall be returned to the owner.

D. Notice of seizure and intended forfeiture proceeding shall be filed in the office of the clerk of the district court for the county where the property is seized and shall be given to all owners and parties in interest. Notice shall be given according to one of the following methods:

1. Upon each owner or party in interest whose right, title, or interest is of record in the Oklahoma Tax Commission or with the county clerk for filings under the Uniform Commercial Code, served in the manner of service of process in civil cases prescribed by Section 2004 of Title 12 of the Oklahoma Statutes;

2. Upon each owner or party in interest whose name and address is known, served in the manner of service of process in civil cases prescribed by Section 2004 of Title 12 of the Oklahoma Statutes; or

3. Upon all other owners, whose addresses are unknown, but who are believed to have an interest in the property by one publication

in a newspaper of general circulation in the county where the seizure was made.

E. Within sixty (60) days after the mailing or publication of the notice, the owner of the property and any other party in interest or claimant may file a verified answer and claim to the property described in the notice of seizure and of the intended forfeiture proceeding.

F. If at the end of sixty (60) days after the notice has been mailed or published there is no verified answer on file, the district court shall hear evidence upon the fact of the unlawful use and may order the property forfeited to the state, if proven.

G. If a verified answer is filed, the forfeiture proceeding shall be set for hearing. At the hearing, the petitioner shall prove by a preponderance of the evidence that property was used in the attempt or commission of an act specified in subsection A of this section or is property described in subsection B of this section with knowledge by the owner of the property.

H. The claimant of any right, title, or interest in the property may prove the lien, mortgage, or conditional sales contract to be bona fide and that the right, title, or interest created by the document was created without any knowledge or reason to believe that the property was being, or was to be, used for the purpose charged.

I. In the event of such proof, the district court may order the property released to the bona fide or innocent owner, lienholder, mortgagee, or vendor if the amount due the person is equal to, or in excess of, the value of the property as of the date of the seizure, it being the intention of this section to forfeit only the right, title, or interest of the purchaser, except for items bearing a counterfeit mark or used exclusively to manufacture a counterfeit mark.

J. If the amount due to the person is less than the value of the property, or if no bona fide claim is established, the property may be forfeited to the state and may be sold pursuant to judgment of the court, as on sale upon execution, and as provided in Section 2-508 of Title 63 of the Oklahoma Statutes, except as otherwise provided for by law and for property bearing a counterfeit mark which shall be destroyed.

K. Property taken or detained pursuant to this section shall not be replevable, but shall be deemed to be in the custody of the petitioner or in the custody of the law enforcement agency. Except for property required to be destroyed pursuant to the Trademark Anti-Counterfeiting Act, the petitioner shall release the property to the owner of the property if it is determined that the owner had no knowledge of the illegal use of the property or if there is insufficient evidence to sustain the burden of showing illegal use of the property. If the owner of the property stipulates to the forfeiture and waives the hearing, the petitioner may determine if

the value of the property is equal to or less than the outstanding lien. If the lien exceeds the value of the property, the property may be released to the lien holder. Property which has not been released by the petitioner shall be subject to the orders and decrees of the court or the official having jurisdiction thereof.

L. The petitioner, or the law enforcement agency holding property, shall not be held civilly liable for having custody of the seized property or proceeding with a forfeiture action as provided for in this section.

M. Attorney fees shall not be assessed against the state or the petitioner for any actions or proceeding pursuant to this section.

N. The proceeds of the sale of any property shall be distributed as follows, in the order indicated:

1. To the bona fide or innocent purchaser, conditional sales vendor, or mortgagee of the property, if any, up to the amount of that person's interest in the property, when the court declaring the forfeiture orders a distribution to the person;

2. To the payment of the actual reasonable expenses of preserving the property; and

3. The balance shall be distributed as follows:

- a. two-thirds ($2/3$) of the amount to the Agriculture Evidence and Law Enforcement Fund, and

- b. one-third ($1/3$) to the district attorney of the county wherein the property was seized for the victim-witness fund, a reward fund, or the evidence fund. If the petitioner is not the district attorney, then the one-third ($1/3$) which would have been designated to that office shall be distributed to the Agriculture Evidence and Law Enforcement Fund.

O. Monies distributed into the fund from forfeitures initiated under this section by the district attorney shall be limited to a balance of One Hundred Thousand Dollars (\$100,000.00) at any one time. Any amount in excess of these figures shall be placed in the Agriculture Revolving Fund.

P. If the district court finds that the property was not used in the attempt or commission of an act specified in subsection A of this section and was not property subject to forfeiture pursuant to subsection B of this section and is not property bearing a counterfeit mark, the Board or the court shall order the property released to the owner as the right, title or interest appears on record in the Oklahoma Tax Commission as of the seizure.

Q. No vehicle, airplane, or vessel used by a person as a common carrier in the transaction of business as a common carrier shall be forfeited pursuant to the provisions of this section unless it is proven that the owner or other person in charge of the conveyance was a consenting party or privy to the attempt or commission of an act specified in subsection A or B of this section. No property shall be

forfeited pursuant to the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the knowledge or consent of the owner, and by any person other than the owner while the property was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States or of any state.

R. Whenever any property is forfeited pursuant to this section, the district court having jurisdiction of the proceeding may order that the forfeited property may be retained for its official use by the Oklahoma Department of Agriculture, Food, and Forestry or by the district attorney.

Added by Laws 2009, c. 168, § 1, eff. Nov. 1, 2009.

§2-2-14.2. Abandoned or stolen property--Storage--Disposal.

A. The Oklahoma Department of Agriculture, Food, and Forestry is hereby authorized to take possession of, store, and dispose of certain abandoned and stolen personal property as provided in this section.

B. The Department shall maintain a permanent record identifying the date and circumstances under which the Department acquired each piece of abandoned or stolen property, the place where each piece of property was found or located, and a detailed description of each article of property. All abandoned or stolen property shall be stored in a suitable place to protect it from deterioration; provided, that if the property is perishable, it may be sold in a manner to maximize value as set forth in subsection C below.

C. If the abandoned or stolen personal property is of a perishable nature and reasonable attempts to locate and identify the owner of the property are not successful, the property may be sold at once without notice.

1. The Department shall use its best efforts to obtain the best possible price for the perishable property.

2. The proceeds from the sale shall be held in a segregated account for a period of six (6) months for the benefit of the property's owner.

3. Subsequent to the sale, notice concerning the holding of proceeds from the sale of the perishable property shall be published once a week for two (2) successive weeks in a newspaper of general circulation published in the city or town closest to the location where the property was recovered and, in the case of cities and towns in which no newspaper is published, by posting the notice in a conspicuous place at the city hall or police station.

4. If the proceeds are not claimed within six (6) months, after deducting and paying all expenses incurred in the recovery, storage, maintenance, and sale of the property, the net funds shall be deposited in the State Department of Agriculture Evidence and Law Enforcement Fund.

D. Six (6) months after the Department comes into possession of any other abandoned or stolen property, it may dispose of the property by public or private auction.

1. Notice of the time and place of sale shall first be given by publication of notice once a week for two (2) successive weeks in a newspaper of general circulation published in the city or town in question and, in the case of cities and towns in which no newspaper is published, by posting notice in a conspicuous place at the city hall or police station.

2. The first publication or posting of notice, as the case may be, shall be at least twenty (20) days before the sale.

3. Each article shall be sold separately and a notation in the permanent record shall be made of the amount received for each article of property.

4. The person making the sale shall have the right to reject any and all bids if the amount bid is unreasonably low and shall have the right to continue the sales from time to time.

5. After deducting and paying all expenses incurred in the taking up, storing, maintaining, and selling of the property, the balance, if any, shall be deposited in the State Department of Agriculture Evidence and Law Enforcement Fund.

Added by Laws 2015, c.288, § 1, eff. Nov. 1, 2015.

§2-2-15. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-2-16. Duties of district attorney or Attorney General.

A. When requested by the State Board of Agriculture it shall be the duty of a district attorney or the Attorney General to institute appropriate proceedings in the proper courts in a timely manner and to prosecute in the manner provided by law when violations of the following occur:

1. The Oklahoma Agricultural Code;

2. Any rule promulgated pursuant to the Oklahoma Agricultural Code; or

3. Any order, license, charter, registration, or permit issued pursuant to the Oklahoma Agricultural Code.

B. Any action to redress or restrain a violation of the Oklahoma Agricultural Code, any promulgated rule or any order, license, charter, registration, or permit issued pursuant to the Oklahoma Agricultural Code or to recover any administrative or civil penalty or other fine assessed pursuant to the Oklahoma Agricultural Code, may be brought by:

1. The district attorney of the appropriate district court of the State of Oklahoma;

2. The Attorney General on behalf of the State of Oklahoma; or

3. The Oklahoma Department of Agriculture, Food, and Forestry on behalf of the State of Oklahoma.

C. The court shall have jurisdiction to determine the action, and to grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

D. When requested by an authorized agent of the Board, it shall be the duty of every peace officer to assist in the detection and apprehension of all persons in violation of the Oklahoma Agricultural Code. Failure to perform this duty shall be cause for removal from office.

Added by Laws 1965, c. 236, § 4, emerg. eff. June 17, 1965. Amended by Laws 2000, c. 243, § 18, emerg. eff. May 24, 2000; Laws 2004, c. 60, § 2, emerg. eff. April 6, 2004.

§2-2-17. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-2-17.1. False statements, etc. to Department - Rendering inaccurate any monitoring or measuring device - Penalties.

In addition to other penalties as may be imposed by law, it is a violation of the Oklahoma Agricultural Code for any person to knowingly make or provide any false statement, representation, or certification to the Oklahoma Department of Agriculture, Food, and Forestry or to knowingly render inaccurate any monitoring or measuring device or information thereof.

Added by Laws 2004, c. 60, § 3, emerg. eff. April 6, 2004.

§2-2-17A. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-2-18. Notice - Hearings - Penalties.

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, 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.

B. The Board may appoint administrative law judges to conduct the hearings. Hearings shall be held at a location within the region in which the alleged violator resides or the violation occurred, or the central offices of the State Board of Agriculture in Oklahoma City, Oklahoma.

C. Any person who fails to comply with the provisions of the Oklahoma Agricultural Code or rules promulgated by the Board shall be deemed guilty of a misdemeanor unless a violation of the Oklahoma Agricultural Code or rules promulgated thereto is specifically identified with a penalty or as a felony in the individual articles of the Oklahoma Agricultural Code.

D. Nothing in the Oklahoma Agricultural Code shall preclude the Board from seeking penalties in district court in the maximum amount allowed by law. The assessment of penalties in an administrative enforcement proceeding shall not prevent the subsequent assessment by a court of the maximum civil or criminal penalties for violations of the Oklahoma Agricultural Code and rules promulgated pursuant thereto.

E. Any person assessed an administrative or civil penalty may be required to pay, in addition to the penalty amount and interest thereon, attorney fees and costs associated with the collection of the penalties.

Added by Laws 1965, c. 236, § 6, emerg. eff. June 17, 1965. Amended by Laws 2000, c. 243, § 19, emerg. eff. May 24, 2000; Laws 2004, c. 60, § 4, emerg. eff. April 6, 2004.

§2-2-18.1. Pollution of air, land, or waters - Order to cease - Administrative penalty.

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.

B. If the State Board of Agriculture finds that any of the air, land, or waters of the state which are subject to the jurisdiction of the Oklahoma Department of Agriculture, Food, and Forestry pursuant to the Oklahoma Environmental Quality Act have been or are being polluted, the Board shall make an order requiring that the pollution cease within a time period determined by the Department, or require a manner of treatment or of disposition of the waste or other polluting material as may in the judgment of the Board be necessary to prevent further pollution. In addition, the Board may assess an administrative penalty pursuant to Section 2-18 of this title. The person to whom the order is directed shall fully comply with the order of the Board and pay any fine and costs assessed.

C. 1. Manure shall not be defined as or be considered a hazardous substance or hazardous waste as those terms are defined by state law.

2. For purposes of this subsection, "manure" means any feces, urine, urea, or other excrement from livestock and shall also only include:

- a. associated nonhazardous bedding, compost, raw materials, or other nonhazardous materials commingled with the excrement,
- b. nonhazardous process water associated with the excrement or materials, or
- c. nonhazardous byproducts, constituents, or substances contained in or originating from the excrement, materials, or process water.

3. This subsection shall not be construed to affect or limit the applicability of any other provision of the Oklahoma Agricultural Code.

Added by Laws 2004, c. 60, § 5, emerg. eff. April 6, 2004. Amended by Laws 2007, c. 36, § 1, eff. Nov. 1, 2007.

§2-2-18.2. Oklahoma Department of Agriculture, Food, and Forestry - Official environmental regulatory agency.

The Oklahoma Department of Agriculture, Food, and Forestry is hereby designated as an official environmental regulatory agency for agricultural point source and nonpoint source pollution within its jurisdiction as specified in subsection D of Section 1-3-101 of Title 27A of the Oklahoma Statutes. The Department is hereby authorized and directed to obtain authorization from the Environmental Protection Agency (EPA) to administer any and all of the National Pollution Discharge Elimination System (NPDES) programs for agricultural point and nonpoint source discharges within its specified jurisdiction.

Added by Laws 1994, c. 289, § 2, emerg. eff. June 6, 1994. Amended by Laws 2004, c. 100, § 3, eff. July 1, 2004. Renumbered from § 1-3-103 of Title 27A by Laws 2004, c. 100, § 4, eff. July 1, 2004. Amended by Laws 2006, c. 201, § 1, eff. Nov. 1, 2006.

NOTE: Editorially renumbered from § 18.2 of this title to provide consistency in numbering.

§2-2-18.3. Survey of agriculture producers - Water quality issues.

The Oklahoma Department of Agriculture, Food, and Forestry, in cooperation with the Oklahoma Conservation Commission and the Oklahoma State University Cooperative Extension Service shall determine if there is a willingness among agriculture producers in Oklahoma to institute a voluntary program designed to reduce the liability of landowners through the establishment of best management practices designed to address water quality issues throughout Oklahoma. The program shall be voluntary in nature and encompass all state and federal regulatory requirements.

Added by Laws 2009, c. 260, § 1, eff. July 1, 2009.

§2-2-19. Renumbered as § 14-81 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-2-20. Renumbered as § 14-82 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-2-21. Renumbered as § 14-83 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-2-22. Repealed by Laws 1996, c. 138, § 8, emerg. eff. May 1, 1996.

§2-2-23. Renumbered as § 14-84 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-2-24. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-2-25. Repealed by Laws 1985, c. 178, § 81, operative July 1, 1985.

§2-2-26. Agriculture Emergency Insect Control Special Fund.

A. The Agriculture Emergency Insect Control Special Fund is hereby created in the State Treasury for the Oklahoma Department of Agriculture, Food, and Forestry. The fund consists of monies transferred to it from funds appropriated to the Department for this purpose. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall be under the control and management of the administrative authority of the Department. Expenditures from the fund shall be pursuant to the laws of this state and rules promulgated by the State Board of Agriculture.

B. The fund shall be for emergency controls that lack legislative appropriation of emergency grasshopper and range caterpillar control within the state or for the general operations of the Department, and may be used for matching purposes for those programs in which the United States Department of Agriculture participates.

C. All expenditures shall be approved by the Board. Warrants for expenditures from the fund shall be based on claims signed by an authorized employee of the Department and approved for payment by the Director of the Office of Management and Enterprise Services.

Added by Laws 1980, c. 137, § 2, emerg. eff. April 15, 1980. Amended by Laws 1981, c. 50, § 2, emerg. eff. April 13, 1981; Laws 1993, c. 278, § 15, operative Sept. 1, 1993; Laws 2000, c. 243, § 24, emerg. eff. May 24, 2000; Laws 2012, c. 304, § 3.

§2-2-27. Department of Agriculture State Indemnity Special Fund.

A. The Department of Agriculture State Indemnity Special Fund is hereby created in the State Treasury for the Oklahoma Department of Agriculture, Food, and Forestry.

B. The fund shall consist of any monies appropriated to the Department specifically for transfer to the fund. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall be under the control and management of the administrative authority of the Department.

C. Expenditures from the fund shall be pursuant to the laws of this state and in accordance with rules promulgated by the State Board of Agriculture.

D. The fund shall be for the purpose of funding state indemnity payments to owners of livestock destroyed or disposed of pursuant to Section 6-3 of this title and to support livestock disease prevention and control programs within the designated division of the Department.

E. All expenditures shall be approved by the State Veterinarian and presented to the Board. Warrants for expenditures from the fund shall be based on claims signed by an authorized employee of the Department.

Added by Laws 1981, c. 304, § 12, emerg. eff. June 29, 1981. Amended by Laws 2000, c. 243, § 25, emerg. eff. May 24, 2000; Laws 2002, c. 173, § 4, emerg. eff. May 6, 2002.

§2-2-27.1. Agriculture Evidence and Law Enforcement Fund.

A. There is created in the State Treasury a revolving fund for the Oklahoma Department of Agriculture, Food, and Forestry to be designated the "Agriculture Evidence and Law Enforcement Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies received from the sale of confiscated property, the seizure and forfeiture of confiscated monies, property, gifts, bequests, devises, or contributions, public or private, including federal and state funds unless otherwise provided by federal law or regulation.

B. All monies accruing to the credit of the fund are appropriated and may be budgeted and expended by the Oklahoma Department of Agriculture, Food, and Forestry, for purposes including but not limited to investigation, enforcement, and prosecution of cases involving administrative, civil, or criminal violations of the Agricultural Code.

C. The balance on deposit in the Agriculture Evidence and Law Enforcement Fund shall never exceed the sum of One Hundred Thousand Dollars (\$100,000.00). Amounts exceeding One Hundred Thousand Dollars (\$100,000.00) shall be deposited in the Agriculture Revolving Fund.

Added by Laws 2009, c. 373, § 1, eff. Nov. 1, 2009.

§2-2-28. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-2-29. Obstruct, hinder or interfere with authorized agent in performance of official duties - Unlawful.

It shall be unlawful for any person to obstruct, hinder, or interfere by acts, verbal or physical threats, or any means with an authorized agent in the performance of their official duties as specified by rules of the State Board of Agriculture and the Oklahoma Agricultural Code.

Added by Laws 2000, c. 243, § 26, emerg. eff. May 24, 2000.

§2-2-30. Provision of mediation services - Plan to increase public awareness of Agriculture Mediation Program.

A. The Oklahoma Agriculture Mediation Program under the direction of the Agriculture Mediation Board as established by subsection D of this section, is authorized to provide mediation services to all individuals, businesses, and state and federal agencies that are engaged in production agriculture, and agriculturally- or environmentally-related activities. The Oklahoma Agriculture Mediation Program shall operate in accord with the Agriculture Credit Act of 1987, as amended, 7 CFR 785, and applicable state and federal laws.

B. The Oklahoma Agriculture Mediation Program shall be formed as an independent entity. The Oklahoma Department of Agriculture, Food, and Forestry shall provide office space for the Oklahoma Agriculture Mediation Program. The Oklahoma Department of Agriculture, Food, and Forestry, in cooperation with appropriate entities such as the Oklahoma Cooperative Extension Service, is authorized to develop and implement a plan to increase public awareness of the Oklahoma Agriculture Mediation Program. The plan shall be designed to provide information about the program to producers, agriculture lenders, and others which may have reason to utilize the services. The plan may include but not be limited to the following:

1. Providing informational literature to every county extension office in the state;

2. Providing information about the program to agricultural lenders in this state by any feasible means, including but not limited to electronic media;

3. Securing such public service announcements from broadcast media as is feasible;

4. Cooperating with and providing information to court officials; and

5. Such other measures as may be calculated to develop a greater awareness of the existence and benefits of the Oklahoma Agriculture Mediation Program.

C. The program is primarily funded by a grant from the United States Department of Agriculture and may provide mediation free of charge to the participants. The State Department of Agriculture, Food, and Forestry, pursuant to the grant recertification provisions at 7 CFR 785 and this section, may provide contributions or allocations in support of the Oklahoma Agriculture Mediation Program, as available. The program may seek supporting contributions from other stakeholders in support of its operations.

D. The Oklahoma Agriculture Mediation Program shall establish and maintain an Agriculture Mediation Board whose members are engaged in or serving agriculture. The Board shall be comprised of a five-person Executive Committee and a fifteen-member Advisory Committee. The five-person Executive Committee shall be comprised of one designee each from the two largest general farm organizations of this state, one designee from the largest farm commodity group of this state, one designee appointed by the Chair of the Senate Agriculture and Rural Development Committee, and one designee appointed by the Chair of the House of Representatives Agriculture and Rural Development Committee. The Advisory Committee shall only be advisory in capacity and comprised of members drawn from the following categories and appointed by the Executive Committee:

1. Each of the United States Department of Agriculture agencies;
 2. The Oklahoma Department of Agriculture, Food, and Forestry;
 3. The Oklahoma State University Cooperative Extension,
- including IFMAPS;
4. The Oklahoma Conservation Commission;
 5. An Oklahoma attorney;
 6. Two Oklahoma farmers or ranchers;
 7. A representative from an agriculture banking institution;
 8. A representative from the Oklahoma Conference of Churches;
 9. A mediator from the federal, state or private sector; and
 10. Such other members from public entities or private organizations as may be needed.

E. The Agriculture Mediation Board shall adopt such procedures as may be necessary for the management of the program.

F. The program will maintain a roster of qualified mediators to assist in servicing requests for mediation.

G. Mediation communications and mediation sessions under this section shall be confidential pursuant to the Administrative Dispute Resolution Act, 5 U.S.C. 574, and this section.

Added by Laws 2000, c. 236, § 1, emerg. eff. May 24, 2000. Amended by Laws 2002, c. 60, § 2, eff. July 1, 2002; Laws 2004, c. 216, § 1; Laws 2010, c. 342, § 1.

NOTE: Editorially renumbered from Title 2, § 2-29 to avoid a duplication in numbering.

§2-2-31. Independent agricultural tourism organization plan - Required provisions - Report date.

A. The Oklahoma Department of Agriculture, Food, and Forestry shall develop a plan to create an independent agricultural tourism organization. This organization shall be established as a tax exempt organization under Section 501(c)(3) of the Internal Revenue Code. The plan shall include:

1. All necessary provisions to form a partnership with the Oklahoma Department of Tourism and Recreation, the Oklahoma Department of Commerce, and the Oklahoma Department of Agriculture, Food, and Forestry; and

2. Provisions to create a board with the number of members to be determined by the Oklahoma Department of Agriculture, Food, and Forestry and membership to include at least one member from the Oklahoma Department of Tourism and Recreation, one member from the Oklahoma Department of Commerce, and one member from the Oklahoma Department of Agriculture, Food, and Forestry.

B. The Oklahoma Department of Agriculture, Food, and Forestry shall make a report of the plan to the Legislature by January 1, 2007.

Added by Laws 2006, c. 318, § 1, emerg. eff. June 9, 2006.

§2-2A-1. Short title - Purpose - Applicability - Water programs.

A. Sections 2 through 11 of this act shall be known and may be cited as the "Oklahoma Agriculture Pollutant Discharge Elimination System Act".

B. The purpose of the Oklahoma Agriculture Pollutant Discharge Elimination System Act is to:

1. Implement the federal National Pollutant Discharge Elimination System requirements;

2. Assist the Oklahoma Department of Agriculture, Food, and Forestry in obtaining authorization to implement the federal Clean Water Act programs; and

3. Issue permits to the persons or organizations owning or operating facilities regulated within the areas of environmental jurisdiction of the Department.

C. The provisions contained in the Oklahoma Agriculture Pollutant Discharge Elimination System Act shall only apply to those programs established pursuant to the environmental jurisdiction of the Department as stated in Section 1-3-101 of Title 27A of the Oklahoma Statutes.

D. Water programs within the environmental jurisdiction of the Department are hereby established that shall be responsible for:

1. Water quality including, but not limited to, point source and nonpoint source pollution;

2. Water protection; and

3. Discharges and potential discharges to waters of the state.

Added by Laws 2005, c. 292, § 2, eff. July 1, 2005.

§2-2A-2. Definitions.

As used in the Oklahoma Agriculture Pollutant Discharge Elimination System Act:

1. "Administrative hearing", "administrative permit hearing", "enforcement hearing" and "administrative enforcement hearing" mean a quasi-judicial individual proceeding, held by the Oklahoma Department of Agriculture, Food, and Forestry, when authorized by the provisions of the Oklahoma Agricultural Code, and conducted pursuant to:
 - a. the Administrative Procedures Act,
 - b. the Oklahoma Agricultural Code, and
 - c. rules promulgated thereunder;
2. "Administrative Procedures Act" means the Oklahoma Administrative Procedures Act;
3. "Director" means the individual appointed by the Commissioner to perform the duties identified in Section 6 of this act;
4. "Discharge" includes, but is not limited to, a discharge of a pollutant or pollutants and means any addition of any pollutant to waters of the state from any point or nonpoint source regulated by the Department within its areas of environmental jurisdiction;
5. "Disposal system" means pipelines or conduits, pumping stations and force mains, and all other devices, construction, appurtenances, and facilities used for collecting, conducting, or disposing of wastewater and treatment systems;
6. "Effluent limitation" means any established restriction imposed by the Department on quantities, rates, and concentrations of chemical, physical, biological, and other constituents that are discharged from point sources into waters of the state and includes schedules of compliance;
7. "Environment" includes the air, land, wildlife, and waters of the state;
8. "Formal public meeting" means a formal public forum, held by the Department when authorized by the provisions of the Oklahoma Agricultural Code, and conducted by a presiding officer pursuant to the requirements of the Oklahoma Agricultural Code and rules promulgated thereunder, at which an opportunity is provided for the presentation of oral comments made and written views submitted within reasonable time limits as determined by the presiding officer. Public meeting shall mean a "public hearing" when held pursuant to requirements of the Code of Federal Regulations or the Oklahoma Agriculture Pollutant Discharge Elimination System Act. A public meeting shall not be a quasi-judicial proceeding;
9. "Nonpoint source" means the contamination of the environment with a pollutant for which the specific point of origin may not be well-defined and includes, but is not limited to, agricultural storm water runoff and return flows from irrigated agriculture;

10. "Point source" means any discernible, confined, and discrete conveyance including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or concentrated animal feeding operation, from which pollutants or wastes are or may be discharged and which is within the Department's environmental jurisdiction. The term "point source" shall not include agricultural storm water discharges and return flows from irrigated agriculture;

11. "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into waters of the state;

12. "Pollution" means the presence or the release in the environment of any substance, contaminant or pollutant, any other alteration of the physical, chemical or biological properties of the environment, the release of any liquid, gaseous or solid substance into the environment:

- a. in quantities which are or will likely create a nuisance, or
- b. in quantities which render or will likely render the environment harmful, detrimental, or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life, or to property;

13. "Schedule of compliance" means a schedule of remedial measures including, but not limited to, an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard;

14. "Serious bodily injury" means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty;

15. "Storm water" means rainwater runoff, snow melt runoff, and surface runoff and drainage;

16. "Treatment works" means any facility within the Department's jurisdictional areas of environmental responsibility, as specified in Section 1-3-101 of Title 27A of the Oklahoma Statutes used for the purpose of treating or stabilizing waste or waste water that does not discharge directly to a publicly owned treatment works; and

17. "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. Added by Laws 2005, c. 292, § 3, eff. July 1, 2005.

§2-2A-3. Authority of Board to promulgate rules - Powers of Department.

A. The State Board of Agriculture shall have the power and duty to promulgate rules implementing and effectuating the Oklahoma Agriculture Pollutant Discharge Elimination System Act. The rules may incorporate by reference any applicable rules, regulations, and policies of the United States Environmental Protection Agency adopted under the federal Clean Water Act. Any rules shall be at least as stringent as the United States Environmental Protection Agency regulations and policies, including, but not limited to, rules that:

1. Allow the inclusion of technology-based effluent limitations and require water-quality-related effluent limitations in Agriculture Pollutant Discharge Elimination System permits to the extent necessary to protect the designated and existing beneficial uses of the waters of the state and to comply with the requirements of the federal Clean Water Act;

2. Apply applicable national standards of performance promulgated pursuant to Section 306 of the federal Clean Water Act in establishing terms and conditions of Director-issued permits;

3. Develop or assist in development of any effluent limitation or other limitation, prohibition, or effluent regulation;

4. Ensure that the public and any other state whose waters may be affected receive notice of each application for a discharge permit;

5. Ensure that any state whose waters may be affected by the activities allowed by a proposed permit may submit written recommendations on the application to the Department. The rules shall provide that if the recommendations or any parts thereof are not incorporated, the Department will notify the affected state in writing and shall provide the reasons therefor;

6. Establish a fee schedule to implement the provisions of the Oklahoma Agriculture Pollutant Discharge Elimination System Act;

7. Establish management standards for sludge which are no less stringent than applicable federal regulations; and

8. Establish procedures and requirements necessary to ensure compliance with applicable federal laws.

B. The Department shall have authority to:

1. Require the owner or operator of any system for the treatment, storage, discharge, or transport of pollutants to:
 - a. establish, maintain, and submit plans, specifications, records, and other data relative to disposal systems or any part thereof, in connection with the issuance of discharge permits or in connection with any permit, purposes, or requirements of the Oklahoma Agriculture Pollutant Discharge Elimination System Act,
 - b. make reports, to install, calibrate, use, and maintain monitoring equipment or methods including biological monitoring methods,
 - c. take samples of effluents in the manner as may be prescribed, and
 - d. provide other information as may be reasonably required;
2. Take all actions that may be necessary or incidental to implement and maintain a pollutant discharge permit program and sludge program, including the authority to assume and obtain authorization to implement and maintain a portion of the National Pollutant Discharge Elimination System state permit program and a state sludge program pursuant to Section 402 and other provisions of the federal Clean Water Act and other applicable federal law. The Director may issue permits for the discharge of pollutants and storm water from facilities and activities within the areas of environmental jurisdiction of the Department specified in Section 1-3-101 of Title 27A of the Oklahoma Statutes;
3. Take necessary and appropriate actions to revoke, modify, refuse to renew, suspend, place on probation, reinstate, or otherwise administer and enforce discharge permits and sludge permits issued by the United States Environmental Protection Agency which are transferred to the Department upon federal authorization of the Agriculture Pollutant Discharge Elimination System program of the Department; and
4. Exercise all necessary incidental powers which are necessary and proper to carry out the purposes of the Oklahoma Agriculture Pollutant Discharge Elimination System Act and to comply with the requirements of the federal Clean Water Act and the requirements of the United States Environmental Protection Agency regulations promulgated thereunder.

Added by Laws 2005, c. 292, § 4, eff. July 1, 2005.

§2-2A-4. Disclosure of interest in regulated entities.

Any employee of the Oklahoma Department of Agriculture, Food, and Forestry in a technical, supervisory or administrative position relating to the review, issuance, or enforcement of permits pursuant to the Oklahoma Agricultural Code who is an owner, stockholder,

employee or officer of, or who receives compensation from, any corporation, partnership, or other business or entity which is subject to regulation by the Department shall disclose the interest to the Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry. Disclosures shall be submitted for Board review and shall be made a part of the Board minutes available to the public. This section shall not apply to financial interests occurring by reason of participation of an employee in the Oklahoma State Employees Deferred Compensation Plan or publicly traded mutual funds. Added by Laws 2005, c. 292, § 5, eff. July 1, 2005.

§2-2A-5. Director of the Agricultural Pollutant Discharge Elimination System.

A. The Commissioner of Agriculture shall appoint the Director of the Agriculture Pollutant Discharge Elimination System. The Director shall serve at the pleasure of the Commissioner.

B. The Director shall have experience in agriculture, forestry, conservation, environmental sciences, or other areas as may be required by the Commissioner.

C. The Director shall not be an owner, stockholder, employee or officer of, nor have any other business relationship with or receive compensation from, any corporation, partnership, or other business or entity which is subject to regulation by the Department and, with regard to the exercise of powers and duties associated with the Oklahoma Agriculture Pollutant Discharge Elimination System Act, shall meet all requirements of Section 304 of the federal Clean Water Act and applicable federal regulations promulgated thereunder by the United States Environmental Protection Agency regarding conflict of interest.

D. 1. The Director shall have the power and duty to:

- a. issue, deny, modify, amend, renew, refuse to renew, suspend, place on probation, reinstate or revoke licenses or permits pursuant to the provisions of the Oklahoma Agricultural Code, and rules promulgated by the State Board of Agriculture, and
- b. issue final orders and assess administrative penalties according to the Administrative Procedures Act, the Oklahoma Agricultural Code, and rules promulgated by the Board.

2. The powers and duties specified in paragraph 1 of this subsection shall be exercised exclusively by the Director on behalf of the Oklahoma Department of Agriculture, Food, and Forestry and may not be delegated to other employees of the Department except as specifically provided in the Oklahoma Agriculture Pollutant Discharge Elimination System Act.

3. In the event of the temporary absence of the Director, the Director may delegate the exercise of these powers and duties to an

acting director during the absence of the Director subject to an organizational structure approved by the Commissioner. In the event of a vacancy in the position of Director, the Commissioner may designate an interim or acting Director who is authorized to exercise the powers and duties until a permanent Director is employed.

4. Any designee exercising the powers and duties of the Director as authorized or on a temporary, acting, or interim basis shall meet the requirements of subsection C of this section for the Director.

5. All references in the Oklahoma Agricultural Code to the Department with respect to the exercise of the powers and duties specified in paragraph 1 of this subsection shall mean the exercise of such powers and duties by the Director or authorized designee. Added by Laws 2005, c. 292, § 6, eff. July 1, 2005.

§2-2A-6. Discharge of pollutant into state waters - Schedule of compliance and conditions - Permits.

A. It shall be unlawful for any person regulated by the Oklahoma Department of Agriculture, Food, and Forestry pursuant to its environmental jurisdiction to discharge any pollutant into waters of the state except in accordance with a permit from the Director of the Agriculture Pollutant Discharge Elimination System.

B. Prior to issuing the pollutant discharge permits, the Director shall prescribe schedules of compliance and conditions as necessary that:

1. Prevent, control, or abate pollution, including water quality-related and technology-based effluent limitations as are necessary to protect the water quality and existing and designated beneficial uses of the waters of the state;

2. Require application of best practicable control technology currently available, best conventional pollutant control technology, or best available technology economically achievable, or other limitations as the Director may prescribe;

3. Require compliance with national standards of performance and toxicity;

4. Set limitations or prohibitions designed to prohibit the discharge of pollutants;

5. Set interim compliance dates which are enforceable without otherwise showing a violation of an effluent limitation or harm to water quality;

6. Set terms and conditions for sludge and land application of wastewater and for impoundments in accordance with rules promulgated by the Board; and

7. Comply with the provisions of the Oklahoma Agriculture Pollutant Discharge Elimination System Act and the requirements of the federal Clean Water Act.

C. The Director shall:

1. Have authority to issue individual permits and authorizations under general permits for pollutants, storm water and sludge as authorized by the Oklahoma Agriculture Pollutant Discharge Elimination System Act;

2. Issue permits for fixed terms not to exceed five (5) years;

3. Have the authority to require conditions in permits issued for facilities subject to the environmental jurisdiction of the Department requiring the permittee to give notice to the Department of:

- a. new introductions into the treatment works of pollutants at a regulated facility from any source which would be a new source as defined in Section 306 of the federal Clean Water Act,
- b. pollutants being introduced from a source which would be a point source subject to Section 301 of the federal Clean Water Act if it were discharging directly to waters of the state,
- c. a substantial change in volume or character of pollutants being introduced into the treatment works by a source introducing pollutants into the works at the time of issuance of the permit, or
- d. other conditions as may be required under the federal Clean Water Act or state law;

4. Have the authority to ensure compliance with Sections 204(b), 307 and 308 and other provisions of the federal Clean Water Act and with other applicable federal law;

5. Have all necessary and incidental authority to comply with the requirements of the federal Clean Water Act and requirements of the United States Environmental Protection Agency set forth in duly promulgated federal regulations adopted under the federal Clean Water Act;

6. Have the authority to terminate or modify permits issued by the Director for cause, including but not limited to:

- a. violation of any condition of the permit, including but not limited to conditions related to limits, monitoring requirements, entry, and inspections,
- b. obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts, or
- c. change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

7. Have all necessary authority to implement and enforce Department programs and requirements established by the State Board of Agriculture in duly promulgated rules;

8. Have all necessary or incidental authority to investigate and abate violations of permits issued by the Director, violations of administrative orders, violations of duly promulgated rules, and

violations of the Oklahoma Agriculture Pollutant Discharge Elimination System Act; and

9. Have all necessary and incidental authority to apply sanctions through administrative proceedings for violations, including but not limited to violations of requirements to obtain permits, terms, and conditions of permits, effluent standards and limitations and water quality standards, and violations of requirements for recording, reporting, monitoring, entry, inspection, and sampling.

Added by Laws 2005, c. 292, § 7, eff. July 1, 2005.

§2-2A-7. Inspection of and access to permitted and unpermitted facilities - Issuance of discharge permit prohibited in certain situations - Documents open to public - Trade secrets protected.

A. Any holder of a permit or applicant for a permit shall be deemed to have given consent to any authorized officer, employee, or agent of the Oklahoma Department of Agriculture, Food, and Forestry to:

1. Enter and inspect the facility in accordance with the provisions of the Oklahoma Agriculture Pollutant Discharge Elimination System Act;

2. Investigate complaints;

3. Have access at any reasonable time for the purposes of reviewing and copying any records required to be maintained;

4. Inspect any monitoring equipment, methods, disposal systems, or other facilities or equipment as may be required;

5. Have access for the purpose of inspecting and sampling any effluent streams or any discharge of pollutants to waters of the state or for inspection and sampling of any sludge source, storage, beneficial use, reuse, or disposal site; and

6. Obtain copies of records, plans, reports, or other information required by the Department to be submitted upon request and subject to and made available for inspection at reasonable times to any authorized representative of the Department. Any authorized representative of the Department may examine any records or memoranda pertaining to discharges, treatment, or other limitations set by permit, order, or duly promulgated rules of the Board.

B. For unpermitted facilities, authorized employees or representatives, upon presentation of a credential and, if necessary, a proper warrant shall have:

1. A right of entry to, upon, or through any private or public premises upon which an effluent or sludge source is or may be located or in which any records are required to be maintained;

2. A right of entry for the purpose of investigating complaints;

3. Access, at any reasonable time, for the purposes of reviewing and copying any records required to be maintained;

4. Authority to inspect any monitoring equipment, methods, disposal systems, or other facilities or equipment as may be required; and

5. Access for the purpose of inspecting and sampling any effluent streams or any discharge of pollutants to waters of the state or for inspection and sampling of any sludge source, storage, beneficial use, reuse, or disposal site.

C. The Director shall not issue a discharge permit if the permit:

1. Would authorize the discharge of a radiological, chemical, or biological warfare agent, or high-level radioactive waste;

2. Would result, in the judgment of the United States Secretary of the Army acting through the Chief of Engineers, in the substantial impairment of anchorage and navigation of any waters of the United States as those waters are defined in the federal Clean Water Act;

3. Is objected to in writing by the Administrator of the United States Environmental Protection Agency or designee, pursuant to any right to object which is granted to the Administrator under Section 402(d) of the federal Clean Water Act; or

4. Would authorize a discharge from a point source which is in conflict with a plan approved under Section 208(b) of the federal Clean Water Act.

D. 1. Any records, reports, or information obtained pursuant to this section shall be available to the public, except that upon submission of sufficient evidence showing that records, reports, or information, or particular parts thereof, other than effluent data, if made public, would divulge methods or processes entitled to protection as trade secrets of that person, the record, report, or information, or particular portion, shall be considered confidential in accordance with the purposes of the federal Uniform Trade Secrets Act.

2. Nothing in this section shall prohibit the Department or an authorized representative of the Department including, but not limited to, any authorized contractor, from disclosing records, reports, or information to other officers, employees, or authorized representatives of the State of Oklahoma or the United States concerned with carrying out provisions of state or federal law under their respective jurisdictions or within their respective authorities.

3. Any records, reports, or information required to be submitted for permitting, compliance, or review that would not be considered confidential by the Environmental Protection Agency shall not be kept confidential pursuant to this subsection.

E. 1. The Board shall promulgate standard precautions for the prevention of the transmission of communicable diseases to humans and animals to be used when inspecting animal feeding operations.

2. Except for emergency situations or when enforcement of a permit requires the use of the standard precautions, Department employees shall observe the health standards and sanitary requirements of the facility.

Added by Laws 2005, c. 292, § 8, eff. July 1, 2005.

§2-2A-8. Rules for storm water discharges.

The State Board of Agriculture shall promulgate rules which prescribe permit requirements applicable to discharges composed entirely of storm water that shall at a minimum meet federal law. The rules may require permits on a case-by-case basis, exempt categories of discharges, or provide a schedule for obtaining the permit. The Board shall have promulgated rules for storm water discharges which comply with Environmental Protection Agency requirements for approval of the state National Pollutant Discharge Elimination Systems program no later than the date that the Department is to receive authorization to administer a state National Pollutant Discharge Elimination System program.

Added by Laws 2005, c. 292, § 9, eff. July 1, 2005.

§2-2A-9. Violations of act, permit, rule or order - Recovery of damages - Right of intervention - Notice - Hearings - Penalties - Review.

A. Whenever there are reasonable grounds to believe that there has been a violation of any of the provisions of the Oklahoma Agriculture Pollutant Discharge Elimination System Act, any permit, any rule, or any order of the Director of the Agriculture Pollutant Discharge Elimination System, the Director shall have the authority and powers to proceed as specified in the Administrative Procedures Act unless otherwise provided herein. However, provisions of this section for written notice, enforcement hearing, and administrative orders shall not be conditions precedent for seeking action in the district court as provided by the Oklahoma Agriculture Pollutant Discharge Elimination System Act or other applicable provisions of law.

B. The Oklahoma Agriculture Pollutant Discharge Elimination System Act shall not in any way impair or in any way affect the right of a person to recover damages for pollution that are otherwise allowed by law in a court of competent jurisdiction.

C. Any person having any interest connected with the geographic area or waters or water system affected, including but not limited to any health, environmental, pecuniary, or property interest, which interest is or may be adversely affected, shall have the right to intervene as a party in any administrative proceeding before the Department, or in any civil proceeding, relating to violations of the Oklahoma Agriculture Pollutant Discharge Elimination System Act or rules, permits or orders issued hereunder.

D. Whenever, on the basis of any information available, the Department finds that any person regulated by the Department is in violation of any act, rule, order, permit, condition or limitation implementing the Oklahoma Agriculture Pollutant Discharge Elimination System Act, or any previously issued discharge permit, the Director may issue an order requiring the person or entity to comply with the provision or requirement, commence appropriate administrative enforcement proceedings, or bring a civil action. Provided, however, the issuance of a compliance order or denial, placing on probation, reinstatement, suspension or revocation of a permit shall not be considered a condition precedent to the accrual or imposition of penalties or fines in any administrative, civil, or criminal proceeding.

E. 1. A copy of any order issued pursuant to this section shall be sent immediately to the violator. In any case in which an order or notice to a violator is issued to a corporation, a copy of the order shall be served on any appropriate individual officers or service agents.

2. Any order issued pursuant to this section shall state with reasonable specificity the nature of the violation, and shall specify a time for compliance not to exceed thirty (30) days in the case of a violation of an interim compliance schedule or operation and maintenance requirement and not to exceed a reasonable time in the case of a violation of a final deadline, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. Any order or notice issued by the Director may be served in any manner allowed by Oklahoma Rules of Civil Procedure applicable to a civil summons.

F. 1. Whenever on the basis of any information available the Director finds that any person regulated by the Department has violated any of the provisions of the Oklahoma Agriculture Pollutant Discharge Elimination System Act, or any permit, rule, order or condition or limitation implementing any of these sections, or previously issued discharge permit or related order, the Director may assess, after providing notice and opportunity for an enforcement hearing to the alleged violator, an administrative fine of not more than Ten Thousand Dollars (\$10,000.00) per day for each violation.

2. The total amount of the administrative fine shall not exceed One Hundred Twenty-five Thousand Dollars (\$125,000.00) per violation. In determining the amount of any penalty assessed under this subsection, the Director shall take into account the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, the ability to pay, any prior history of violations, the degree of culpability, the economic benefit savings, if any, resulting from the violation, and any other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of

more than one pollutant parameter shall be treated as a single violation.

3. Enforcement hearings shall be conducted in accordance with the procedures set out in the Administrative Procedures Act.

G. 1. The Director is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which the Director is authorized to issue a compliance order under subsection D of this section.

2. Any person who violates any provision of the Oklahoma Agriculture Pollutant Discharge Elimination System Act, any permit condition or limitation implementing any of such provisions in a permit issued under the Oklahoma Agriculture Pollutant Discharge Elimination System Act, and any person who violates any order issued by the Director under subsection D of this section, shall be subject to a civil penalty not to exceed Ten Thousand Dollars (\$10,000.00) per day for each violation.

3. In determining the amount of the civil penalty, the court shall consider the seriousness of the violation or violations, the economic benefit, if any, resulting from the violation, any history of violations, any good faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and any other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

4. Any action pursuant to this subsection may be brought in the district court for the district in which the property or defendant is located or defendant resides or is doing business, and the court shall have jurisdiction to restrain any violation and to require compliance.

5. The prior revocation of a permit shall not be a condition precedent to the filing of a civil action under the Oklahoma Agriculture Pollutant Discharge Elimination System Act.

H. 1. Any person who violates any provision of this act, any order of the Director, or any condition or limitation in a permit issued pursuant to this act may be punishable by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Ten Thousand Dollars (\$10,000.00) per day for each violation, or by imprisonment for not more than six (6) months for each violation, or both.

2. Any person who knowingly makes any false material statement, representation, or certification in, omits material data from, or tampers with any application, notice, record, report, plan, or other document filed or required to be maintained under the Oklahoma Agriculture Pollutant Discharge Elimination System Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under the Oklahoma Agriculture Pollutant Discharge Elimination System Act,

shall be punishable, upon conviction, by a fine of not more than Ten Thousand Dollars (\$10,000.00) per day for each violation, or by imprisonment for not more than two (2) years, or by both. If a conviction of a person is for a violation committed after a first conviction of that person under this paragraph, punishment shall be by a fine of not more than Twenty Thousand Dollars (\$20,000.00) per day for each violation, or by imprisonment for not more than four (4) years, or by both. In addition, the Director shall deny issuance of the permit or require submission of a new application.

3. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

I. 1. Whenever, on the basis of information available, the Department finds that an owner or operator of any source is introducing a pollutant into a treatment works in violation of the Oklahoma Agriculture Pollutant Discharge Elimination System Act or any requirement, rule, permit, or order issued under this act, the Department shall notify the owner or operator of the treatment works of the violation.

2. If the operator of the treatment works does not commence appropriate enforcement action within thirty (30) days of the date of the notification, the Department may commence a civil action for appropriate relief, including but not limited to a permanent or temporary injunction, against the owner or operator of the treatment works.

3. In the civil action, the Department shall join the operator of the source as a party to the action.

4. The action shall be brought in the district court in the county in which the treatment works is located.

5. The court shall have jurisdiction to restrain the violation and to require the operator of the treatment works and the operator of the source to take any action as may be necessary to come into compliance with the Oklahoma Agriculture Pollutant Discharge Elimination System Act.

6. Nothing in this subsection shall be construed to limit or prohibit any other authority the Department may have under this section.

J. 1. Any person against whom an administrative compliance or penalty order is issued under this section may obtain review of the order by filing a petition for review in district court pursuant to the Oklahoma Administrative Procedures Act. The court shall not impose additional civil penalties for the same violation unless the assessment of the penalty constitutes an abuse of discretion. No stay of an administrative penalty order shall be granted until the amount of penalty assessed has been deposited with the reviewing district court pending resolution of the petition for review.

2. If any person fails to pay an assessment of an administrative penalty:

- a. after the order making the assessment has become final, or
- b. after a court in an action brought under paragraph 1 of this subsection has entered a final judgment in favor of the Department, as the case may be,

a civil action may be brought in an appropriate district court to recover the amount assessed plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be. In such an action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

3. Any person who fails to pay on a timely basis the amount of an assessment of an administrative or civil penalty shall be required to pay, in addition to the amount and interest, attorney fees and costs for the collection proceeding and a quarterly nonpayment penalty for each quarter during which the failure to pay persists. The nonpayment penalty shall be in an amount equal to twenty percent (20%) of the aggregate amount of the penalties of the person and nonpayment penalties which are unpaid as of the beginning of the quarter.

K. 1. The Attorney General or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of this act, any rule, any order of the Director, or any condition or limitation in a permit issued pursuant to this act.

2. Any action for injunctive relief to redress or restrain a violation of any person of a provision of this act, any rule, any order of the Director, or any condition or limitation in a permit issued pursuant to this act or recovery of any administrative or civil penalty assessed may be brought by:

- a. the district attorney of the appropriate district court of the State of Oklahoma,
- b. the Attorney General on behalf of the State of Oklahoma, or
- c. the Department on behalf of the State of Oklahoma.

3. It shall be the duty of the Attorney General and district attorney if requested by the Director to bring such action.

Added by Laws 2005, c. 292, § 10, eff. July 1, 2005.

§2-2A-10. Application for permit - Compliance with local ordinances, rules or requirements.

A. For permits or other authorizations required pursuant to the Oklahoma Agricultural Code, applicants shall file applications in the form and manner established by the Oklahoma Department of

Agriculture, Food, and Forestry. The Department shall review the applications as filed and subsequently amended or supplemented. Any permit issued or authorization granted may include conditions.

B. Permits and other authorizations required pursuant to the Oklahoma Agriculture Pollutant Discharge Elimination System Act may contain provisions requiring that operations shall be in compliance with municipal and other local government ordinances, rules, and requirements. A determination or certification that the operations under the requested permit or authorization conform or comply with those ordinances, rules, or requirements, the enforcement of which is not within the jurisdiction or authority of the Department, shall not be considered by the Department in its review and approval or denial of a permit or authorization.

Added by Laws 2005, c. 292, § 11, eff. July 1, 2005.

§2-2A-21. Short title.

Sections 12 through 20 of this act shall be known and may be cited as the "Oklahoma Agriculture Environmental Permitting Act". Added by Laws 2005, c. 292, § 12, eff. July 1, 2005.

§2-2A-22. Definitions.

For the purposes of the Oklahoma Agriculture Environmental Permitting Act:

1. "Application" means a document or set of documents, filed with the Oklahoma Department of Agriculture, Food, and Forestry for the purpose of receiving a permit or the modification, amendment, or renewal thereof from the Department. The term "application" includes any subsequent additions, revisions, or modifications submitted to the Department that supplement, correct, or amend a pending application;

2. "Draft permit" means a draft document prepared by the Department after it has found a Tier II or III application for a permit to be administratively and technically complete and that the application may warrant the issuance, modification, or renewal of the permit;

3. "Permit" means a permission required by law and issued by the Department, the application for which has been classified as Tier I, II, or III by the State Board of Agriculture. The term "permit" includes but is not limited to:

- a. specific types of permits and other Department authorizations including certifications, registrations, licenses, and plan approvals,
- b. general permits and notices of intent for coverage by a general permit, and
- c. an approved variance from a promulgated rule; however, for existing facilities the Department may require additional notice and public participation

opportunities for variances posing the potential for increased risk;

4. "Process meeting" means a meeting open to the public which is held by the Department to explain the permitting process and the public participation opportunities applicable to a specific Tier III application;

5. "Proposed permit" means a document, based on a draft permit and prepared by the Department after consideration of comments received on the draft permit, that indicates the decision of the Department to issue a final permit pending the outcome of an administrative permit hearing, if any;

6. "Qualified interest group" means any organization with twenty-five or more members who are Oklahoma residents;

7. "Response to comments" means a document prepared by the Department after its review of timely comments received on a draft denial or draft permit pursuant to public comment opportunities which:

- a. specifies any provisions of the draft permit that were changed in the proposed or final permit and the reasons for the changes, and
- b. briefly describes and responds to all significant comments raised during the public comment period or any hearing regarding the draft denial or draft permit;

8. "Tier I" means a basic process of permitting that includes application, notice to the landowner, and Department review. For the Tier I process, a permit shall be issued or denied by a technical supervisor of the reviewing Division or local representative of the Department provided the authority has been delegated by the Director;

9. "Tier II" means a process of permitting which includes:

- a. the Tier I process,
- b. published notice of application filing,
- c. preparation of the draft permit or draft denial,
- d. published notice of the draft permit or draft denial and opportunity for a formal public meeting, and
- e. public meeting, if any.

For the Tier II process, a permit shall be issued or denied by the supervisor of the reviewing Division provided the authority has been delegated thereto by the Director; and

10. "Tier III" means an expanded process of permitting which includes:

- a. (1) the Tier II process, except the notice of filing, shall also include an opportunity for a process meeting,
- (2) preparation of the response of the Department to comments, and
- (3) denial of application, or

- b. preparation of a proposed permit, the published notice of availability of the proposed permit and the response to comments and of the opportunity for an administrative permit hearing, and an administrative permit hearing, if any.

For the Tier III process, a permit shall be issued or denied by the Director.

Added by Laws 2005, c. 292, § 13, eff. July 1, 2005.

§2-2A-23. Rules designating application tiers.

A. The State Board of Agriculture shall have the authority to promulgate rules to implement the Oklahoma Agriculture Environmental Permitting Act for each tier that will to the greatest extent possible:

1. Enable applicants to follow a consistent application process;
2. Ensure that uniform public participation opportunities are offered;
3. Provide for uniformity in notices required of applicants; and
4. Set forth procedural application requirements.

B. The rules shall designate applications as Tier I, II, or III and shall at a minimum be consistent with federal law. In making these determinations, the Board shall consider information and data offered on:

1. The significance of the potential impact of the type of activity on the environment;
2. The amount, volume, and types of waste proposed to be accepted, stored, treated, disposed, discharged, emitted, or land applied;
3. The degree of public concern traditionally connected with the type of activity;
4. The federal classification, if any, for the proposed activity, operation, or type of site or facility; and
5. Any other factors relevant to the determinations.

C. For purposes of this section, the Board shall ensure that designations are, at a minimum, consistent with any analogous classifications set forth in applicable federal programs.

D. The rules for each tier shall:

1. Set forth uniform procedures for filing an application;
2. Contain specific uniform requirements for each type of notice and public participation or hearing opportunities required by the Oklahoma Agriculture Environmental Permitting Act;
3. Contain other provisions needed to implement and administer the Oklahoma Agriculture Pollutant Discharge Elimination System Act; and
4. Designate positions to which the Director may delegate, in writing, the power and duty to issue, renew, amend, modify, and deny permits.

Added by Laws 2005, c. 292, § 14, eff. July 1, 2005.

§2-2A-24. Powers and duties of Department.

A. The Oklahoma Department of Agriculture, Food, and Forestry is hereby authorized to implement and enforce the provisions of the Oklahoma Agriculture Environmental Permitting Act and rules promulgated thereunder.

B. In addition to authority under the Oklahoma Agricultural Code, the Department shall have the power and duty to:

1. Evaluate applications for administrative and technical completeness pursuant to requirements of the Oklahoma Agricultural Code and rules promulgated thereunder and, when necessary to determine the completeness, request changes, revisions, corrections, or supplemental submissions;

2. Evaluate notices related to applications for sufficiency of content and compliance and require that omissions or inaccuracies be cured;

3. Consider timely and relevant comments received;

4. Prepare responses to comments, draft and final denials, and draft, proposed, and final permits;

5. Cooperate with federal agencies;

6. Consolidate processes related to multiple, pending applications filed by the same applicant for the same facility or site in accordance with rules of the State Board of Agriculture; and

7. Otherwise exercise all incidental powers as necessary and proper to implement the provisions of the Oklahoma Agriculture Environmental Permitting Act and promulgate rules.

Added by Laws 2005, c. 292, § 15, eff. July 1, 2005.

§2-2A-25. Tier II or III applications - Publication of notice of filing - Process meeting on Tier III applications.

A. Upon filing a Tier II or III application with the Oklahoma Department of Agriculture, Food, and Forestry, the applicant shall publish notice of the filing as legal notice in one newspaper of general circulation local to the proposed new site or existing facility. The publication shall identify public locations where the application may be reviewed, including a public location in the county where the proposed new site or existing facility is located.

B. For Tier III applications, the publication shall also include notice of a thirty-day opportunity to request, or give the date, time and place for, a process meeting on the permitting process. If the Department receives a timely request and determines that a significant degree of public interest in the application exists pursuant to rules of the Department, it shall schedule and hold the meeting. The applicant shall be entitled to attend the meeting and may make a brief presentation on the permit request. Any local community meeting regarding the proposed facility or activity for

which a permit is sought that is scheduled and held by the applicant may be combined, with the agreement of the Department and the applicant, with the process meeting authorized by this paragraph.

C. The provisions of this section shall not stay the review of the application by the Department.

Added by Laws 2005, c. 292, § 16, eff. July 1, 2005.

§2-2A-26. Tier II or III applications - Draft denial or permit.

A. Upon conclusion of its technical review of a Tier II or III application within the permitting timeframes established by rules promulgated by the State Board of Agriculture, the Oklahoma Department of Agriculture, Food, and Forestry shall prepare a draft denial or draft permit.

1. Notice of a draft denial shall be given by the Department and notice of a draft permit shall be given by the applicant.

2. Notice of the draft denial or draft permit shall be published as legal notice in one newspaper of general circulation local to the proposed new site or existing facility. The notice shall identify public locations where the draft denial or draft permit may be reviewed, including a public location in the county where the proposed new site or existing facility is located, and shall provide for a set time period for public comment and for the opportunity to request a formal public meeting on the respective draft denial or draft permit. The time period shall be set at least thirty (30) calendar days after the date the notice is published unless a longer time is required by federal regulations promulgated as rules by the Board. In lieu of the notice of opportunity to request a public meeting, notice of the date, time, and place of a public meeting may be given, if previously scheduled.

B. Upon the publication of notice of a draft permit, the applicant shall make the draft permit and the application, except for proprietary provisions otherwise protected by law, available for public review at a public location in the county where the proposed new site or existing facility is located.

Added by Laws 2005, c. 292, § 17, eff. July 1, 2005.

§2-2A-27. Public meeting on draft denial or permit.

A. Pursuant to the rules of the Oklahoma Department of Agriculture, Food, and Forestry, the Department shall promptly schedule and hold a formal public meeting if the Department receives timely written request for the meeting on the draft denial or draft permit.

B. Notice of the meeting shall be given to the public at least thirty (30) calendar days prior to the meeting date.

C. The public meeting shall be held at a location convenient to and near the proposed new site or existing facility not more than one

hundred twenty (120) calendar days after the date notice of the draft denial or draft permit was published.

D. At the meeting, any person may submit oral or written statements and data concerning the draft denial or permit.

E. The public comment period shall automatically be extended to the close of the public meeting. Upon good cause shown, the presiding officer may extend the comment period further to a date certain by so stating at the meeting.

F. The meeting shall not be a quasi-judicial proceeding.

G. The applicant or a representative of the applicant may be present at the meeting to respond to questions.

Added by Laws 2005, c. 292, § 18, eff. July 1, 2005.

§2-2A-28. Tier II applications - Final permit - Response to comments - Tier III applications - Proposed permit - Notice and hearing - Final denial or permit.

A. For draft permits or draft denials for Tier II applications on which no comment or public meeting request was received in a timely manner and on which no public meeting was held, the final permit shall be issued or denied.

B. For draft permits or draft denials for Tier II applications on which comment or a public meeting request was received in a timely manner or on which a public meeting was held, the Oklahoma Department of Agriculture, Food, and Forestry, after considering the comments, shall prepare a response to comments and issue the draft permit as is or as amended or make final denial.

C. The response to comments shall be prepared within ninety (90) working days after the close of the public comment period unless extended by the Director upon a determination that additional time is required due to circumstances outside the control of the Department. Circumstances may include, but shall not be limited to, an act of God, a substantial and unexpected increase in the number of applications filed, additional review duties imposed on the Department from an outside source, or outside review by a federal agency.

D. 1. For a draft permit for a Tier III application, after the public comment period and the public meeting, if any, the Department shall prepare a response to any comments received in a timely manner and either issue a final denial in accordance with paragraph 5 of this subsection or prepare a proposed permit.

2. When a proposed permit is prepared, the applicant shall publish notice, as legal notice in one newspaper of general circulation local to the proposed new site or existing facility, of the tentative decision of the Department to issue the permit. The notice shall identify the locations where the proposed permit and the response of the Department to comments may be reviewed, including a public location in the county where the proposed new site or existing

facility is located and shall offer a twenty-working-day opportunity to request an administrative hearing to participate in as a party.

3. The Department shall ensure that any additional notice requirements as otherwise provided by law are followed.

4. The opportunity to request a hearing shall be available to the applicant and any person or qualified interest group that alleges that the operation may have a direct, substantial, and immediate effect upon the health, environmental, pecuniary, or property interest or upon the legal interest of that person or qualified interest group.

5. If no written administrative hearing request is received by the Department by the end of twenty (20) working days after the publication date of the notice, the final permit shall be issued.

6. If the final decision of the Department is to deny the permit, it shall give notice to the applicant and issue a final denial in accordance with subsection G of this section.

E. 1. When an administrative hearing is requested in a timely manner on a proposed permit in accordance with subsection C of this section, all timely requests shall be combined in a single hearing. The hearing shall be a quasi-judicial proceeding and shall be conducted by an administrative law judge in accordance with the Administrative Procedures Act, the Oklahoma Agricultural Code, and rules promulgated by the State Board of Agriculture.

2. The applicant shall be a party to the hearing.

3. The Department shall hold a scheduling conference within sixty (60) calendar days after the end of the hearing request period.

4. The Department shall move promptly to an evidentiary proceeding in which parties shall have the right to present evidence before the Department on whether the proposed permit and the technical data, models and analyses, and information in the application upon which the proposed permit is based are in substantial compliance with applicable provisions of the Oklahoma Agricultural Code and rules promulgated thereunder and whether the proposed permit should be issued as is, amended and issued, or denied.

5. Failure of any party to participate in the administrative proceeding with good faith and diligence may result in a default judgment with regard to that party; provided, however, that no final permit shall be issued solely on the basis of any such judgment.

F. If the Department decides to reverse its initial draft decision, it shall withdraw the draft denial or draft permit and prepare a draft permit or draft denial, as appropriate. Notice of the withdrawal of the original draft and preparation of the revised draft shall be given as provided in Section 15 of this act. The Department then shall reopen the comment period and provide additional opportunity for a formal public meeting on the revised draft as described in Section 18 of this act.

G. Upon final issuance or denial of a permit for a Tier III application, the Department shall provide public notice of the final permit decision and the availability of the response to comments, if any.

H. Any appeal of a Tier III final permit decision or any final order connected to it shall be made in accordance with the provisions of the Oklahoma Agricultural Code and the Administrative Procedures Act. Any appeal shall be limited to the participants of the administrative proceedings.

I. Any applicant, within ten (10) days after final denial of the application for a new original permit on which no final order was issued, may petition the Department for reconsideration on the grounds stated in the Administrative Procedures Act as if the denial was an order. Disposition of the petition shall be by order of the Director according to the Administrative Procedures Act.

Added by Laws 2005, c. 292, § 19, eff. July 1, 2005.

§2-2A-29. General permits.

For common and routine permit applications, the Oklahoma Department of Agriculture, Food, and Forestry may expedite the permitting process by issuing permits of general applicability, hereafter identified as general permits. General permits shall be subject to all the Tier II administrative procedures including the public participation requirements. The administrative process for rulemaking shall not be applicable to the issuance of general permits. Individual applicants may obtain authorization through the Tier I process to conduct an activity covered by a general permit. General permits are limited to activities under the Tier I and Tier II classifications.

Added by Laws 2005, c. 292, § 20, eff. July 1, 2005.

§2-3-1. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-2. Repealed by Laws 2013, c. 118, § 25, eff. Nov. 1, 2013.

§2-3-11. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-12. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-13. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-14. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-15. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-16. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-17. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-18. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-19. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-20. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-21. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-22. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-23. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-24. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-25. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-26. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-27. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-28. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-29. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-30. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-31. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-32.1. Definitions.

As used in this subarticle:

1. "Broker" means any person who negotiates the purchase or sale of any nursery stock. A broker may or may not handle the nursery stock or the proceeds of a sale;

2. "Certificate" means a document authorized or prepared by a duly authorized federal or state regulatory official that affirms, declares, or verifies that an article, nursery stock, plant, product, shipment, or any other officially regulated items meet phytosanitary, quarantine, nursery inspection, pest freedom, plant registration or certification, or any other set of legal requirements;

3. "Compliance agreement" means any written document between a person and the Oklahoma Department of Agriculture, Food, and Forestry or the United States Department of Agriculture to achieve compliance with any set of requirements being enforced by the Department;

4. "Cultivar" means a horticulturally, silviculturally, or agriculturally derived cultivated variety of a plant, as distinguished from a natural variety;

5. "Dealer" means any person who sells, brokers, or distributes nursery stock that was not grown from seeds, cuttings, liners, or similar propagative material by that person but was bought, received on consignment, or acquired and in the person's possession for the purposes of resale;

6. "Facilities" means and includes all buildings, greenhouses, storage places, cellars, pits, trenches, bins, containers, packing materials, crates, packing rooms, display bins, refrigerators, ice boxes, and any other structures and materials used in storing, transporting, and distributing nursery stock. The nursery, dealer, or agent shall maintain the facilities as are necessary for the proper care and conservation of nursery stock;

7. "Grower" means any person who raises, grows, or propagates for profit or other reasons any nursery stock or plant;

8. "Heel yard" means any plant holding area;

9. "Horticulture" means the discipline of agriculture science relating to the cultivation of gardens or orchards, including, but not limited to the growing of vegetables, flowers, and ornamental trees and shrubs;

10. "Landscape" means a person who purchases nursery stock and offers that stock for sale or planting through landscape services and typically does not hold and maintain plants in a heel yard or nursery;

11. "Native species" means a species that, other than due to an introduction, historically occurred or currently occurs in that ecosystem;
12. "Nursery" means and includes any field, ground, greenhouse, bin, pit, plot, or premise where nursery or floral stock is grown, propagated, or sold;
13. "Nursery operator" means the person who owns, leases, manages, or is in control of a nursery, and any person who is a grower of nursery stock;
14. "Nursery stock" means and includes, whether in field or container, all trees, shrubs, vines, rosebushes, turfgrass, cuttings, grafts, scions, fruit pits, herbaceous plants, evergreens and other ornamental trees, bushes, collected wild plants and trees, decorative plants, tropical plants, flowering plants, bedding plants, vegetable plants for transplanting, aquatic plants, roots, corms, rhizomes, bulbs, and ferns grown for propagation, all packing materials, and other things used in the handling, storing, crating, and shipping of nursery stock. "Nursery stock" does not include cut Christmas trees, wreaths, seeds, vegetables or fruits, agronomic crops, cut or dried flowers, and cut or dried herbs;
15. "Phytosanitary certificate" means a document issued by the Department indicating that the specified live plants or plant products comply with the legal requirements of the importing state or country. The document may be either a State Phytosanitary Certificate or Federal Phytosanitary Certificate;
16. "Place of business" means each separate store, stand, sales lot, or any other place at or from which nursery stock is being sold or offered for sale;
17. "Plant pest" means any pest known to cause damage or harm to plants, agricultural commodities, horticultural products, nursery stock, silvicultural interests, or the environment. Plant pest includes, but is not limited to, insects, snails, nematodes, fungi, viruses, bacterium, microorganisms, mycoplasma-like organisms, weeds, plants, or other parasitic higher plants;
18. "Sales location" means any principal business location where nursery stock is sold directly to a customer;
19. "Sell" means to offer for sale, expose for sale, possess for sale, exchange, barter, or trade;
20. "Silviculture" means the development and care of forests;
21. "Stop sale" means a legal document issued by the State Board of Agriculture that prevents the production of or sale of nursery stock due to an infestation of a plant pest; and
22. "Turfgrass sod" means a strip or section of one or more grasses or other plants acceptable for lawn plantings which, when severed from its growing site, contains sufficient plant roots to remain intact, and does not contain weeds in excess of the amount specified by the Board.

Added by Laws 2000, c. 367, § 1, emerg. eff. June 6, 2000. Amended by Laws 2007, c. 200, § 1, eff. Nov. 1, 2007.

§2-3-32.2. Inspections - Notices of violations - Seizure or destruction of stock - Treatment of diseased plants - Rules and regulations.

A. 1. The Oklahoma Department of Agriculture, Food, and Forestry shall have the authority to inspect any orchard, fruit, garden, park, cemetery, private premises, public place, or any place that may be infested with a plant pest that may be a threat to plants belonging to other property owners or the health or safety of the general public.

2. The Department may inspect any nursery stock, shipping documents, treatment records, sales records, or other relevant documents of any person, whether licensed with the Department or not, to determine the distribution of nursery stock.

3. The Department may take samples removed of nursery stock in order to determine compliance with this subarticle. If the Department finds that the samples are not in compliance with this subarticle, the Department's finding shall be considered prima facie evidence that a violation has occurred.

B. The Department shall have the authority to issue notices of violation, citations, compliance orders, conditional orders, stop sales orders, stop work orders, quarantines, or any other order authorized pursuant to the Oklahoma Agricultural Code.

C. Any nursery stock distributed, sold, or offered for sale within this state or delivered for transportation or transported in intrastate or interstate commerce may be seized or caused to be destroyed by the Department in any county of the state where it may be found if:

1. The nursery stock is devitalized or infested with a plant pest and may become a threat to plants belonging to other persons or the health, safety, or welfare of the general public; or

2. The nursery stock does not bear the proper certificate, plant tag information, or the required inspection or shipping information.

D. The Department shall also have the authority to order the owner, occupant, or person in charge to take any necessary action including, but not limited to, the proper treatment or destruction of infested or diseased plants pursuant to the Oklahoma Agricultural Code and the Administrative Procedures Act.

E. For the purpose of securing uniformity of rules, no city, town, county, or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation, or statute regarding nursery stock sales or distribution that is more stringent than the rules of the State Board of Agriculture.

Added by Laws 2000, c. 367, § 2, emerg. eff. June 6, 2000. Amended by Laws 2007, c. 200, § 2, eff. Nov. 1, 2007.

§2-3-32.3. Plant pests - Sale - Notice.

A person shall not knowingly propagate, sell, or offer for sale any nursery stock infested or infected with any plant pest. If the State Board of Agriculture finds any plant pest at any nursery or dealer's facility, the Board shall notify the owner or person in control of the nursery or facility in writing. The Board shall issue a stop sale until treatment or destruction of the plant pest on nursery stock or in the facility is completed. No damages shall be awarded to the owner for the loss of infested or infected trees, plants, shrubs, or other plant material destroyed as a result of an order of the Board.

Added by Laws 2000, c. 367, § 3, emerg. eff. June 6, 2000.

§2-3-32.4. Nursery stock shipments - Inspection certificates.

All nursery stock shipped into Oklahoma shall have a certificate on each package stating that the contents were inspected by an authorized inspecting officer and that the contents appear free from plant pests. The State Board of Agriculture shall have the authority to inspect all nursery stock. The Board shall have the authority to order any nursery stock which may be infested with any plant pests destroyed or returned to the consignor at the consignor's expense.

Added by Laws 2000, c. 367, § 4, emerg. eff. June 6, 2000.

§2-3-32.5. Vegetable plants and transplants - Identification.

All vegetable plants or transplants in flats, crates, baskets or containers, regardless of origin, shall have affixed to the outside, a tag bearing:

1. The name and address of the grower or dealer for whom this inspection was conducted, except at the grower's location; and
2. The variety and/or cultivar name under which the vegetable plants are sold.

Added by Laws 2000, c. 367, § 5, emerg. eff. June 6, 2000.

§2-3-32.6. Turfgrass sod - Identification.

A. A seller of turfgrass sod shall be required to state on the sales contract, invoice, or bill of lading the following information:

1. The variety and the named blend or mixture of turfgrass; and
2. Each different lot of harvested turfgrass sod shall be identified by a sign stating the variety, kinds, or name blend or mixture as stated on the invoice or bill of lading from the shipper when offered or exposed for sale.

B. All growers shall provide the legal description of all growing fields of sod to the State Department of Agriculture.

Added by Laws 2000, c. 367, § 6, emerg. eff. June 6, 2000.

§2-3-32.7. Licenses - Inspection fees.

A. The fee for each grower or dealer, license issued or renewed and inspection conducted shall be as follows:

1. Grower's license fee - Twenty five Dollars (\$25.00) for each business location;
2. Grower's inspection fee - One Dollar (\$1.00) per acre or 1000 square feet of greenhouse area inspected; and
3. Dealer's license fee - Thirty eight Dollars (\$38.00) for each business location.

B. No fee shall be charged for a grower's license issued to any scientific, agricultural, or horticultural club, educational or eleemosynary institution, or any department or branch of the state or federal government.

C. All licenses shall expire at a date to be determined by the State Board of Agriculture. Failure to remit the license fee by the 15th of the month following the expiration month shall result in a penalty fee equal to the cost of the license.

D. A person shall obtain a license prior to selling or dealing in nursery stock.

E. All licenses are nontransferable upon any change of ownership.

F. All penalties, fees, and monies collected under this program shall be paid to the State Department of Agriculture and deposited in the State Department of Agriculture Revolving Fund.

Added by Laws 2000, c. 367, § 7, emerg. eff. June 6, 2000.

§2-3-32.8. Violations.

It shall be unlawful for any person to knowingly or willfully violate any of the provisions of this subarticle or any rules of the State Board of Agriculture by:

1. Misrepresenting to another their connection with a nursery, or to:
 - a. misrepresent the grade, character, variety, or quality of any nursery stock,
 - b. make a false declaration of acreage,
 - c. conceal any nursery stock from inspection, or
 - d. offer for sale nursery stock which is seriously or substantially devitalized;
2. Failing to furnish the Oklahoma Department of Agriculture, Food, and Forestry with true and exact copies of order forms, contracts, and agreements with customers;
3. Failing to furnish each purchaser, upon request, a true and correct invoice of each purchase, stating the variety, quality, age, or size of the stock to which the invoice applies;
4. Selling, offering for sale, or distributing any nursery stock infected or infested with a plant pest;
5. Selling, offering for sale, or distributing nursery stock that is not healthy, sound, and capable of growth;

6. Failing to carry out treatment or destruction of nursery stock as ordered by the Board;
 7. Misrepresenting or falsifying information on a license application;
 8. Doing business without a valid license;
 9. Allowing a license to be used by any person other than the person to whom it was issued;
 10. Failing to notify the Board of the legal description of all growing locations of nursery stock or sod;
 11. Failing to allow an authorized agent to complete an inspection or collect adequate samples;
 12. Selling nursery stock restricted by a stop sale order;
 13. Selling, moving, or distributing nursery stock or other material under a quarantine;
 14. Mislabeling nursery stock by using the wrong common name or botanical name;
 15. Transporting any regulated article into the state from a quarantined area of any other state or country when the article has not been treated or handled as provided by the requirements of the quarantine;
 16. Interfering with, hindering, or impeding, by any method, any authorized agent of the Board in the performance of duties;
 17. Falsifying or using false information to ship nursery stock out of Oklahoma into any other state in the United States or any country outside of the United States or making a false statement regarding the condition, quality, grade, character, variety, or treatment used; or
 18. Failing to comply with any order of the Board.
- Added by Laws 2000, c. 367, § 8, emerg. eff. June 6, 2000. Amended by Laws 2007, c. 200, § 3, eff. Nov. 1, 2007.

§2-3-32.9. Quarantines.

A. The State Board of Agriculture shall have the authority to establish a quarantine and promulgate rules prohibiting or restricting the transportation into or through Oklahoma from any other state, country, territory, or district of any nursery stock, or other article, of any character, capable of carrying plant pests or other harmful pests.

B. The quarantine shall show the boundaries of the area or place quarantined and the conditions of the quarantine.

C. The Board shall have the authority to promulgate rules for the seizure, inspection, disinfection, destruction, or other disposition of any nursery stock, plants, plant products, or other article, of any character, capable of carrying harmful plant pests or other harmful pests.

Added by Laws 2000, c. 367, § 9, emerg. eff. June 6, 2000. Amended by Laws 2001, c. 146, § 133, emerg. eff. April 30, 2001.

§2-3-35. Repealed by Laws 2013, c. 118, § 25, eff. Nov. 1, 2013.

§2-3-50.1. Short title.

This act shall be known and may be cited as the "Boll Weevil Eradication Act".

Added by Laws 1993, c. 198, § 1, eff. Sept. 1, 1993. Amended by Laws 2006, c. 211, § 1, eff. Nov. 1, 2006.

§2-3-50.2. Declaration - Purpose.

A. The *Anthonomus grandis* Boheman, known as the boll weevil, is hereby declared to be a public nuisance, a pest, and a menace to the cotton industry. Due to the interstate nature of boll weevil infestation, it is necessary to secure the cooperation of cotton growers, other state governments, and agencies of the federal government in order to carry out a program of boll weevil eradication and posteradication maintenance and control.

B. The purpose of the Boll Weevil Eradication Act is to secure and ensure on a continuing basis the eradication of the boll weevil. Added by Laws 1993, c. 198, § 2, eff. Sept. 1, 1993. Amended by Laws 2006, c. 211, § 2, eff. Nov. 1, 2006.

§2-3-50.3. Definitions.

As used in the Boll Weevil Eradication Act:

1. "Board of directors" means the board of directors of the Oklahoma Boll Weevil Eradication Organization elected pursuant to the provisions of the Boll Weevil Eradication Act;

2. "Boll weevil" means the insect *Anthonomus grandis* Boheman, in any stage of development, including the egg, larval, pupal and adult stages;

3. "Commissioner" means the Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry or designee;

4. "Cotton" means a cotton plant or any part of it including bolls, stalk, flowers, root, or leaves or cotton products such as seed cotton, cottonseed, and hulls;

5. "Eligible cotton grower" means any person actively engaged in the production of cotton either currently or in any two (2) of the three (3) years immediately preceding the calling of an election or a referendum;

6. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry;

7. "Eradicated area" means an area free of boll weevil;

8. "Host" means any plant or plant product in which the boll weevil is capable of completing any portion of its life cycle;

9. "Infested" means the presence of the boll weevil in any life stage or the existence of circumstances that make it reasonable to believe that the boll weevil is present;

10. "Organization" means the Oklahoma Boll Weevil Eradication Organization established pursuant to the provisions of the Boll Weevil Eradication Act;

11. "Regulated article" means any article carrying or capable of carrying the boll weevil, including but not limited to cotton plants, seed cotton, gin trash, other hosts, or cotton harvesting equipment; and

12. "Quarantined area" means any area or part of the state designated as quarantined by the State Board of Agriculture at the request of the Oklahoma Boll Weevil Eradication Organization. Added by Laws 1993, c. 198, § 3, eff. Sept. 1, 1993. Amended by Laws 2006, c. 211, § 3, eff. Nov. 1, 2006.

§2-3-50.4. Review by Commissioner and State Board of Agriculture.

The Commissioner in conjunction with the State Board of Agriculture is authorized to review and make recommendations to the Legislature regarding the boll weevil eradication and posteradication maintenance and control program.

Added by Laws 1993, c. 198, § 4, eff. Sept. 1, 1993. Amended by Laws 2006, c. 211, § 4, eff. Nov. 1, 2006.

§2-3-50.5. Oklahoma Boll Weevil Eradication Organization - Formation - Status - Membership.

A. 1. The State of Oklahoma shall contain a boll weevil eradication district to be known as the Oklahoma Boll Weevil Eradication Organization for the purposes of eradicating boll weevils and performing posteradication maintenance and control functions as an agency of the State of Oklahoma. The Organization and the board of directors may enter into agreements with other state agencies, other states, the United States of America and any other entity or party as necessary to carry out the purposes of the Boll Weevil Eradication Act.

2. The Organization shall be, and is hereby declared to be, a governmental agency of the State of Oklahoma, body politic and corporate, with powers of government and with the authority to exercise the rights, privileges, and functions specified by the Boll Weevil Eradication Act.

B. Every person who is a cotton grower in this state is subject to the provisions of the Boll Weevil Eradication Act; however, only eligible cotton growers may vote in the elections provided for by the Boll Weevil Eradication Act.

Added by Laws 1993, c. 198, § 5, eff. Sept. 1, 1993. Amended by Laws 1997, c. 381, § 1, eff. July 1, 1997; Laws 1998, c. 253, § 1, eff. July 1, 1998; Laws 2000, c. 231, § 1, emerg. eff. May 24, 2000; Laws 2006, c. 211, § 5, eff. Nov. 1, 2006.

§2-3-50.6. Board of directors - Election procedure.

A. 1. Elections for the board of directors shall be conducted under the procedures provided by this section.

2. A cotton grower eligible to vote in a particular district who desires to be a candidate for the board of directors shall file with the board a petition signed by five cotton growers from the district board. The application shall be:

- a. filed not later than thirty (30) days before the date set for the election, and
- b. on a form approved by the board.

3. On receipt of an application and verification that the application meets the requirements of this section, an applicant's name shall be placed on the ballot for the election of the board of directors.

4. The election shall be preceded by at least forty-five (45) days' notice published in one or more newspapers published and distributed in the established election districts. The notice shall be published not less than once a week for three (3) consecutive weeks.

B. All cotton growers actively engaged in the production of cotton in the year of the calling of an election or who were actively engaged in production of cotton in any two (2) of the three (3) years immediately preceding the calling of the election shall be entitled to vote in the election. The board shall determine eligibility to vote.

C. The board shall establish an election process that shall include but not be limited to provisions for determining:

- a. who is a cotton grower eligible to vote in an election,
- b. whether a board member is elected by a plurality or a majority of the votes cast, and
- c. qualifications for membership of the board of directors.

D. Eligible cotton growers may vote in any district in which they produce cotton.

E. Ballots in an election may be mailed to a central location or delivered in person to a location or locations designated by the board.

Added by Laws 1993, c. 198, § 6, eff. Sept. 1, 1993. Amended by Laws 2006, c. 211, § 6, eff. Nov. 1, 2006.

§2-3-50.7. Board of directors - Composition - Terms of office - Powers and duties - Definition of bonds - Bylaws - Additional powers, duties and responsibilities - Liability - Compensation.

A. 1. Except as provided by this section, the board of directors of the Oklahoma Boll Weevil Eradication Organization shall be composed of five cotton growers from this state who are elected from the five separate districts established by the board.

2. The terms of office of the elected board of directors shall be three (3) years.

3. A director may be removed from office by a majority vote of the board of directors for cause. Causes for removal include the following:

- a. neglect of duty,
- b. willful misconduct,
- c. malpractice in office,
- d. self-dealing,
- e. incompetence,
- f. gross inefficiency, or
- g. any other unbecoming conduct that can or may affect the ability of the Oklahoma Boll Weevil Eradication Organization to satisfactorily perform its duties or carry out its mission as a public body.

All new directors shall take an oath of office before assuming the role as a director on the board.

4. Directors shall hold office until their respective successors are elected and take the oath of office.

5. At each election, the cotton grower with the highest number of votes from each district shall serve on the board of directors.

B. The board of directors shall have the power and duty to:

1. Appoint a new director from the appropriate election district to serve the remaining term in the event of a vacancy on the board of directors;

2. Collect assessments pursuant to the Boll Weevil Eradication Act;

3. Conduct programs consistent with the Boll Weevil Eradication Act;

4. Determine and establish the assessment annually for the following crop year pursuant to the Boll Weevil Eradication Act and the program enabling referendum. The assessment shall be determined upon a fair and equitable system that is based on cotton production and infestation factors. The assessment shall be a flexible rate not to exceed Seven Dollars and fifty cents (\$7.50) per acre and one cent (\$.01) per pound of lint produced. Upon any change in the assessment rate, the board shall immediately notify growers and cotton gins of the new rate;

5. Develop bylaws for the due and orderly administration of the affairs of the board of directors and for its responsibilities specified pursuant to the provisions of the Boll Weevil Eradication Act;

6. Develop, implement and pay for a plan for boll weevil eradication and posteradication maintenance and control in this state;

7. Advise, consult, and cooperate with agencies of this state, political subdivisions, other states, the federal government, and affected groups;

8. Collect and disseminate information relating to boll weevil eradication and posteradication maintenance and control;

9. Recommend the designation of "eradicated areas" to the State Board of Agriculture upon completion of active eradication and the beginning of posteradication maintenance and control;

10. Sue and be sued, implead and be impleaded, complain and defend in all courts;

11. Adopt, use, and alter at will a corporate seal;

12. Adopt bylaws for the management and regulation of its affairs and to promulgate and issue rules governing its operations;

13. Appoint officers, agents, and employees and prescribe their duties and fix their compensation, within any limitations prescribed by law;

14. Make contracts of every name and nature and execute all instruments necessary or convenient for the carrying on of the business of the Oklahoma Boll Weevil Eradication Organization;

15. Accept grants from and enter into contracts or other transactions with any federal agency;

16. Issue and sell bonds, or borrow money, in amounts as shall be needed from time to time for the purposes set forth in the Boll Weevil Eradication Act.

a. The bonds may:

- (1) be issued in one or more series,
- (2) bear the date or dates,
- (3) mature at time or times not exceeding twenty (20) years from their date,
- (4) be in denomination or denominations,
- (5) be in form, either coupon or registered,
- (6) carry registration and conversion privileges,
- (7) be executed in a proper manner,
- (8) be payable in medium of payment at a place or places,
- (9) be subject to terms of redemption with or without premium, and
- (10) bear rate or rates of interest, as may be provided by resolution or resolutions to be adopted by the Board within limits provided by law, and be sold in a manner and at a price or prices as may be considered by the Board to be advisable.

b. Bonds shall have all the qualities and incidents of negotiable paper, and the interest thereon shall not be subject to taxation by the State of Oklahoma.

c. The board of directors may issue bonds pursuant to the Boll Weevil Eradication Act for the purpose of renewing

funding of any obligations of the board of directors, or may authorize and deliver a single issue of bonds hereunder for the purpose in part of renewing funding for obligations of the board.

- d. The bonds issued pursuant to the Boll Weevil Eradication Act shall not be an indebtedness of the State of Oklahoma but shall be special obligations payable solely from the assessments. The board of directors is authorized and directed to pledge all or any part of the assessments to the payment of and interest on the bonds.
- e. The board of directors may enter into any agreement or contracts with the United States of America or the State of Oklahoma or any agency or instrumentality thereof which it may consider advisable or necessary in order to obtain a grant of funds or other aid to be used in connection with the proceeds of the bonds.
- f. All bonds issued pursuant to the Boll Weevil Eradication Act shall have on the backs thereof the certificate required by Section 29 of Article 10 of the Constitution of Oklahoma. The bonds shall be submitted to the Attorney General of Oklahoma for examination. The bonds, having been examined and certified as legal obligations by the Attorney General in accordance with the requirements as the Attorney General may make, shall be incontestable in any court in the State of Oklahoma unless suit thereon shall be brought in a court having jurisdiction thereof within thirty (30) days from the date of approval. Bonds so approved by the Attorney General shall be prima facie valid and binding obligations according to their terms. The only defense that may be offered in any suit instituted after a thirty-day period shall have expired shall be a violation of the Constitution.
- g. Any bank, trust, or insurance company organized under the laws of Oklahoma may invest its capital, surplus, and reserves in bonds issued under the provisions of the Boll Weevil Eradication Act;

17. File an application, at its discretion, with the Supreme Court of Oklahoma for the validation of the Boll Weevil Eradication Act or for the approval of any series of bonds to be issued hereunder or any other actions to be taken by the board of directors. Exclusive original jurisdiction is hereby conferred upon the Supreme Court to hear and determine each application.

- a. It shall be the duty of the Supreme Court to give applications precedence over the other business of the Supreme Court and to consider and pass upon the

applications and any protests that may be filed thereto as speedily as possible.

- b. Notice of the hearing on each application shall be given by a notice published in a newspaper of general circulation in the state that on a day named, the board of directors will ask the court to hear its application. The notice shall inform all persons interested that they may file protests against the validation or approval and be present at the hearing and contest the same. The notice shall be published one time, not less than ten (10) days prior to the date named for the hearing, and the hearing may be adjourned from time to time at the discretion of the court.
- c. In any action to approve bonds, if the Supreme Court is satisfied that the bonds have been properly authorized in accordance with the provisions of the Boll Weevil Eradication Act and that when issued they will constitute valid obligations in accordance with their terms, the Supreme Court shall render its written opinion approving the bonds and shall fix the time within which a petition for rehearing may be filed. The decision of the Supreme Court shall be a judicial determination of the validity of the bonds, shall be conclusive as to the board of directors, its officers and agents, and thereafter the bonds so approved and the revenues pledged to their payment shall be incontestable in any court in the State of Oklahoma;

18. Conduct elections, at the discretion of the board of directors, for any lawful purpose, including, but not limited to, any assessment modification policy to deal with natural disasters. Election procedures shall be established by the board of directors. Fifty percent (50%) or more of the cotton growers voting shall approve each ballot issue for its adoption;

19. Reexamine the number and composition of the existing election districts in order to ensure fair and equitable geographic areas based upon cotton production density. If the board of directors determines that the number or composition of the election districts should be reestablished, the board of directors shall:

- a. fairly and equitably establish the election districts necessary utilizing geographic areas based upon cotton production density as the primary factor,
- b. conduct the election of the next board of directors consistent with this section,
- c. hold public hearings regarding the establishment of election districts,
- d. facilitate the expeditious transfer of authority to the newly elected board of directors, and

- e. establish terms of office for the new board consistent with this section.

Any elected or appointed board member shall have all the powers and duties as granted pursuant to the Boll Weevil Eradication Act; and

20. Take any other actions deemed necessary by the board of directors to implement the provisions of the Boll Weevil Eradication Act.

C. As used in this section, "bonds" means bonds, notes, loan agreements, or other forms of indebtedness issued or delivered by the Oklahoma Boll Weevil Eradication Organization.

D. The bylaws established by the board of directors relating to boll weevil eradication and the assessment referenda shall be submitted to the State Board of Agriculture for determination as to whether the bylaws will be promulgated as rules of the State Board of Agriculture. The bylaws may be promulgated in whole or in part or may be returned for modification to the board of directors. The State Board of Agriculture shall comply with the Administrative Procedures Act in promulgating any rules adopted pursuant to the provisions of this subsection.

E. The board of directors shall:

1. Make available all books, records of account, and minutes of proceedings maintained by the Organization for inspection by the Office of the State Auditor and Inspector for an audit in accordance with the provisions of subsection B of Section 212 of Title 74 of the Oklahoma Statutes;

2. Not later than forty-five (45) days after the last day of the fiscal year, submit to the Commissioner a report itemizing all income and expenditures and describing all activities of the Organization during the fiscal year;

3. Provide surety bonds in amounts determined by the Commissioner for employees or agents who handle funds for the Organization;

4. Receive, hold in trust, and disburse all assessments and other funds collected pursuant to the Boll Weevil Eradication Act as trust funds of the Organization; and

5. Make available all books, records of account, and minutes of proceedings of the Organization for inspection or audit by the Commissioner at any reasonable time.

F. 1. Pursuant to the authority granted by the Boll Weevil Eradication Act, except for instances of gross negligence, individual criminal actions or acts of dishonesty, the board of directors and employees of the board of directors are not individually liable to a cotton grower or other person for:

- a. errors in judgment,
- b. mistakes, or
- c. omissions.

2. Under no circumstances shall the board of directors, the individual board members, or employees of the board of directors be personally liable for any bonds of the Organization.

3. A member of the board of directors or an employee of the board of directors is not individually liable for an act or omission of another member or employee of the board of directors.

G. The board of directors shall serve without compensation but are entitled to reimbursement for reasonable and necessary expenses incurred in the discharge of their duties.

Added by Laws 1993, c. 198, § 7, eff. Sept. 1, 1993. Amended by Laws 1997, c. 381, § 2, eff. July 1, 1997; Laws 1998, c. 253, § 2, eff. July 1, 1998; Laws 2000, c. 30, § 1, emerg. eff. April 6, 2000; Laws 2005, c. 93, § 1, eff. Nov. 1, 2005; Laws 2006, c. 211, § 7, eff. Nov. 1, 2006; Laws 2010, c. 413, § 5, eff. July 1, 2010.

§2-3-50.8. Certification of acreage in program.

Every person growing cotton in this state shall annually certify to the board of directors the person's number of acres and provide the legal description and the United States Department of Agriculture Farm Services Agency (FSA) numbers for each field. The certification shall occur on or before July 20 of each year. The cotton grower shall also furnish to the board of directors any other information reasonably required to carry out the provisions of the Boll Weevil Eradication Act.

Added by Laws 1993, c. 198, § 8, eff. Sept. 1, 1993. Amended by Laws 1997, c. 381, § 3, eff. July 1, 1997; Laws 2000, c. 231, § 2, emerg. eff. May 24, 2000; Laws 2005, c. 93, § 2, eff. Nov. 1, 2005; Laws 2006, c. 211, § 8, eff. Nov. 1, 2006.

§2-3-50.9. Repealed by Laws 2006, c. 211, § 23, eff. Nov. 1, 2006.

§2-3-50.9a. Collection of assessment.

A. 1. The assessment imposed pursuant to the provisions of the Boll Weevil Eradication Act shall be levied on a cotton grower at the time of sale and shall be collected and remitted to the board of directors by the cotton gin serving as the selling agent for the cotton produced. The cotton gins shall furnish monthly reports to the board of directors on or before the fifteenth day of each month regarding the assessments collected, pay all of the assessments collected each month, and furnish the board with any other information reasonably requested by it to ensure the collection of the assessments for each grower.

2. Pursuant to the provisions of the Boll Weevil Eradication Act no cotton shall be subject to assessment of a fee more than once.

B. 1. The cotton gin serving as selling agent for the cotton grower shall collect the assessment in the same manner as ginning

costs are deducted from the purchase price of the cotton or from any funds advanced for that purpose.

2. The board of directors, by registered or certified mail, shall notify each cotton gin of the duty to collect the assessment, the manner in which the assessment is to be collected, and the date on or after which the cotton gin is to begin collecting the assessment, the date by which an accounting of all assessments collected and paid will be submitted, and the date by which the balance of previously collected assessment shall be paid.

3. The amount of the assessment collected shall be clearly shown on the sales invoice or other document evidencing the transaction. The cotton gin, as the seller's agent, shall furnish a copy of the document to the cotton grower.

C. 1. The cotton gin may rely upon the information or certification provided by the board of directors to the cotton gin regarding cotton acres and other related information as deemed necessary by the board of directors in determining the amount of assessment due and owing from the cotton grower.

2. A cotton gin that uses due diligence in collecting an assessment from a cotton grower based upon information or a certification provided by the board of directors regarding the cotton grower shall be relieved of any liability for any errors or omissions in the assessment should it be determined that the assessment was inaccurate.

3. The provisions contained in this section apply to all cotton gins located in the State of Oklahoma or in any other state. Any gin that, whether by design or inadvertent act, fails to forward to the board of directors by June 1 of each year an accounting of all assessments collected and paid, as well as payment for all assessments previously collected but not paid, shall be subject to an administrative penalty or fine pursuant to the Boll Weevil Eradication Act.

D. Every cotton grower shall keep accurate production records on the amount of cotton ginned and the number of acres planted and harvested for a minimum of two (2) years. Copies shall be furnished to any authorized agent of the board of directors or the State Board of Agriculture at any time during reasonable business hours of the cotton grower immediately upon oral request, or within ten (10) working days of any written request.

E. Failure to pay the required assessment or any remaining amount due shall result in an administrative penalty or fine to the grower, or other legal action to the grower or to the cotton gin when the assessment has been collected from the cotton grower.

Added by Laws 1997, c. 381, § 5, eff. July 1, 1997. Amended by Laws 2000, c. 231, § 4, emerg. eff. May 24, 2000; Laws 2005, c. 93, § 3, eff. Nov. 1, 2005; Laws 2006, c. 211, § 9, eff. Nov. 1, 2006.

§2-3-50.10. Boll Weevil Eradication Fund.

A. There is hereby created the Boll Weevil Eradication Fund. The Boll Weevil Eradication Fund shall be administered by the board of directors for the benefit of the cotton growers in this state to eradicate and ensure the long-term eradication and control of boll weevils. The Boll Weevil Eradication Fund shall be established and maintained in a bank or other depository approved by the Commissioner.

B. The Boll Weevil Eradication Fund shall consist of:

1. All monies received by the board of directors as proceeds from the assessment imposed pursuant to the Boll Weevil Eradication Act;

2. Interest attributable to investment of money in the Boll Weevil Eradication Fund; and

3. Monies received by the board of directors in the form of gifts, grants, reimbursements, or from any other source designated by law for deposit to the Boll Weevil Eradication Fund.

C. The monies deposited in the Boll Weevil Eradication Fund, including emergency contingency funding for posteradication infestation, shall at no time become monies of the state.

D. Monies in the Boll Weevil Eradication Fund shall only be expended for:

1. Implementation and management of the Boll Weevil Eradication Act; and

2. Costs incurred by the board of directors and the State Board of Agriculture for the administration of the Boll Weevil Eradication Act.

E. Any debts or obligations of the organization shall not become or be construed to be obligations of the Oklahoma Department of Agriculture, Food, and Forestry or this state.

Added by Laws 1993, c. 198, § 10, eff. Sept. 1, 1993. Amended by Laws 2006, c. 211, § 10, eff. Nov. 1, 2006.

§2-3-50.11. Department of Agriculture, Food, and Forestry - Collection of assessment and administrative penalty or fine - Disposition of penalty.

A. The board of directors may request the Oklahoma Department of Agriculture, Food, and Forestry to provide for the collection of the assessment or for other enforcement action necessary as determined by the board of directors for violations of the Boll Weevil Eradication Act and for collection of any administrative penalty or fine from any person who is determined to have violated any provision of the Boll Weevil Eradication Act.

B. Notwithstanding any other provision of the law, in an enforcement action brought by the board of directors, the board of directors may collect, in addition to the assessment, a fine from any

person or cotton gin that is determined to have violated any provision of the Boll Weevil Eradication Act.

C. Failure by any person to comply with any provisions of the Boll Weevil Eradication Act may result in assessment of an administrative penalty or fine of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

D. Any administrative penalty or fine collected pursuant to the provisions of this section shall be deposited in the Boll Weevil Eradication Fund; provided, the Department shall be reimbursed for any costs incurred by the Department in the enforcement of this section.

Added by Laws 1993, c. 198, § 11, eff. Sept. 1, 1993. Amended by Laws 2000, c. 231, § 5, emerg. eff. May 24, 2000; Laws 2005, c. 93, § 4, eff. Nov. 1, 2005; Laws 2006, c. 211, § 11, eff. Nov. 1, 2006; Laws 2007, c. 157, § 2, eff. Nov. 1, 2007.

§2-3-50.12. Repealed by Laws 2006, c. 211, § 23, eff. Nov. 1, 2006.

§2-3-50.13. Repealed by Laws 2006, c. 211, § 23, eff. Nov. 1, 2006.

§2-3-50.14. Commissioner assistance in control of boll weevil eradication programs - Use of state-appropriated monies prohibited - Reimbursement of Department's costs and expenses.

A. The Commissioner, upon the request of the board of directors, is authorized to assist in the eradication and control of the boll weevil in this state.

B. State-appropriated monies shall not be a funding source for activities conducted pursuant to the Boll Weevil Eradication Act. The Department shall be reimbursed for any costs and expenses incurred for any assistance provided pursuant to the Boll Weevil Eradication Act.

Added by Laws 1993, c. 198, § 14, eff. Sept. 1, 1993. Amended by Laws 2006, c. 211, § 12, eff. Nov. 1, 2006.

§2-3-50.15. Cooperation with other entities - Written agreements.

The Commissioner is authorized to cooperate with any agency of the federal government, any state contiguous to this state, any other agency in this state, or any person engaged in growing, processing, marketing, or handling cotton in this state, or any group of persons, in programs to effectuate the purposes of the Boll Weevil Eradication Act, and may enter into written agreements to effectuate these purposes. The agreements may provide for cost sharing, for division of duties and responsibilities pursuant to the Boll Weevil Eradication Act and may include other provisions that effectuate the purposes of the Boll Weevil Eradication Act.

Added by Laws 1993, c. 198, § 15, eff. Sept. 1, 1993. Amended by Laws 2006, c. 211, § 13, eff. Nov. 1, 2006.

§2-3-50.16. Right of entry - Inspections and other activities - Warrants.

A. 1. The board of directors and the Oklahoma Department of Agriculture, Food, and Forestry, or their authorized agents shall have authority, to:

- a. enter cotton fields and other premises in order to carry out activities, including but not limited to treatment with pesticides, monitoring, and destruction of growing cotton and other host plants, as necessary to carry out the provisions of the Boll Weevil Eradication Act,
- b. make inspection of any fields or premises in this state and any property for the purpose of determining if the property is infested with boll weevils, and
- c. examine and make photocopies of any records and documents relating to the Boll Weevil Eradication Act.

2. The inspection and other activities may be conducted at any hour with the notification of the owner or person in charge of the premises or property. If access is denied, the board of directors, the Oklahoma Department of Agriculture, Food, and Forestry, or the authorized agent of either shall have the right to apply to and obtain from a district court an administrative warrant as necessary to enforce the right of access and inspection as authorized pursuant to 2-14 of the Oklahoma Code.

B. Any judge of this state shall, within the judge's territorial jurisdiction, and upon proper statutory authority, issue administrative warrants for the purpose of conducting administrative inspections and other activities authorized by the Boll Weevil Eradication Act.

Added by Laws 1993, c. 198, § 16, eff. Sept. 1, 1993. Amended by Laws 2006, c. 211, § 14, eff. Nov. 1, 2006.

§2-3-50.17. Rules.

A. The Oklahoma Department of Agriculture, Food, and Forestry is authorized to promulgate rules, including, but not limited to:

1. Establishing quarantine areas in this state or any portion thereof at the request of the board of directors;
2. Designating this state or any portion thereof as an "eradicated area"; and
3. Governing the storage or other handling in the eradicated or other quarantined areas of regulated articles and the movement of regulated articles into or from these areas, when the Department determines that an action is necessary, or reasonably appears

necessary, to prevent, eradicate, control, or retard the spread of boll weevil.

B. 1. The Department shall promulgate rules establishing a reasonable schedule of administrative penalties and fines for violations of the Boll Weevil Eradication Act.

2. The Department shall promulgate rules necessary, expedient, or appropriate for the performance, enforcement, or carrying out of any of the purposes, objectives, or provisions of the Boll Weevil Eradication Act.

3. Any rules promulgated pursuant to the Boll Weevil Eradication Act, including the establishment of quarantines, shall be promulgated in accordance with the Administrative Procedures Act.

Added by Laws 1993, c. 198, § 17, eff. Sept. 1, 1993. Amended by Laws 2000, c. 231, § 6, emerg. eff. May 24, 2000; Laws 2006, c. 211, § 15, eff. Nov. 1, 2006.

§2-3-50.18. Destruction of cotton - Volunteer or noncommercial cotton.

A. When a person fails to meet the rules promulgated by the Oklahoma Department of Agriculture, Food, and Forestry, the Commissioner, at the request of the board of directors, shall have authority to destroy cotton in any area of the state not in compliance with the rules.

B. Cotton in any area of the state from a volunteer or noncommercial source may be destroyed or treated with pesticides by the Oklahoma Department of Agriculture, Food, and Forestry upon request of the board of directors.

Added by Laws 1993, c. 198, § 18, eff. Sept. 1, 1993. Amended by Laws 2006, c. 211, § 16, eff. Nov. 1, 2006.

§2-3-50.19. Unlawful acts - Moving infested article into state - Penalties.

A. It shall be unlawful for any person to store or handle any regulated article in an eradicated or other quarantined area, or to move into or from an eradicated or other quarantined area any regulated article, except under conditions as may be prescribed by the rules promulgated by the State Board of Agriculture.

B. Any person who, except in compliance with the rules of the Department, moves any regulated article into this state from any other state infested by boll weevils shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to the penalty provided in Section 3-50.20 of this title. Any person convicted of a violation may be required to pay restitution for damages caused by the violation.

Added by Laws 1993, c. 198, § 19, eff. Sept. 1, 1993. Amended by Laws 2006, c. 211, § 17, eff. Nov. 1, 2006.

§2-3-50.20. Violations - Penalties.

Any person who violates any of the provisions of the Boll Weevil Eradication Act or the rules promulgated thereto, or who shall alter, forge, counterfeit, or use without authority any certificate, permit, or other document provided for in the Boll Weevil Eradication Act or in rules promulgated thereto shall, upon conviction, be guilty of a misdemeanor and shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00). Added by Laws 1993, c. 198, § 20, eff. Sept. 1, 1993. Amended by Laws 2006, c. 211, § 18, eff. Nov. 1, 2006.

§2-3-50.21. Boll Weevil Eradication Organization - Relationship with Merit System of Personnel Administration - Seasonal employees.

A. The Oklahoma Boll Weevil Eradication Organization shall not be subject to the Merit System of Personnel Administration.

B. The Oklahoma Boll Weevil Eradication Organization is authorized to employ seasonal employees for projects throughout the calendar year. Project labor employed by the Oklahoma Boll Weevil Eradication Organization may be employed for a period of time necessary to complete the project. Regardless of the number of hours worked during any fiscal year, project employees shall not be entitled to paid leave, paid holidays, retirement, longevity, health, dental or life insurance, and disability benefits, and shall be exempt from any laws, rules or practices providing for these benefits, or to state employee minimum annualized salaries, salary increases or adjustments, unless specifically authorized by law. Added by Laws 2000, c. 231, § 7, emerg. eff. May 24, 2000. Amended by Laws 2006, c. 211, § 19, eff. Nov. 1, 2006.

§2-3-50.30. Review and evaluation of boll weevil eradication efforts.

The Oklahoma Department of Agriculture, Food, and Forestry may periodically conduct reviews to evaluate the ongoing boll weevil eradication and posteradication efforts in the state.

Added by Laws 1997, c. 17, § 1, eff. Nov. 1, 1997. Renumbered from § 3-60.1 of this title by Laws 1997, c. 381, § 7, eff. July 1, 1997. Amended by Laws 2006, c. 211, § 20, eff. Nov. 1, 2006.

§2-3-51. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-52. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-60.1. Renumbered as § 3-50.30 of this title by Laws 1997, c. 381, § 7, eff. July 1, 1997.

§2-3-61. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-62. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-63. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-64. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-65. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-66. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-67. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-68. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-69. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-70. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-71. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-81. Definitions.

As used in the Combined Pesticide Law:

1. "Aircraft" means any contrivance used or designed for navigation of or flight in the air over land or water and is designed for or adaptable for use in applying pesticides as sprays, dusts, or other forms;

2. "Active ingredient" means an ingredient, which defoliates plants, prevents fruit drop, inhibits sprouting, or destroys, repels, or mitigates insects, fungi, bacteria, rodents, weeds, or other pests;

3. "Adulterated" means and includes any pesticide if the pesticide strength or purity falls below the professed standard of quality as expressed on labeling or under which it is sold, or if any substance has been substituted wholly or in part for the components

of the pesticide, or if any valuable constituent of the components of the pesticide has been wholly or in part abstracted;

4. "Antidote" means the most practical immediate treatment in case of poisoning and includes but is not limited to first aid treatment;

5. "Business location" means any place, site, or facility maintained by a commercial or noncommercial applicator where records, including but not limited to, financial statements, payroll, insurance, and personnel documents are maintained, pesticides are stored, or customers are served. A location serving strictly as a telephone answering service shall not be considered a business location;

6. "Certificate" means a written document issued to an individual by the State Board of Agriculture which indicates that the individual has met the certification standards established by the Combined Pesticide Law for the category of pesticide application shown on the certificate. A certificate does not allow a person to do work as a commercial, noncommercial, service technician, or private applicator unless employed by a licensed entity or has a valid license issued by the Board;

7. "Certification standards" means the standards that a person shall meet to become a certified applicator;

8. "Certified applicator" means a person who has met the certification standards;

9. "Commercial application" means the advertising of services, recommendation for use, the preparation for application, or the physical act of applying a pesticide or employment of a device for hire or compensation;

10. "Commercial applicator" means any person engaging in the commercial application of pesticides or commercial employment of devices. Any farmer while working for a neighbor in agricultural production, not advertising, and not held out to be in the business of applying restricted-use pesticides, shall not be classified by the Board as a commercial applicator;

11. "Contract" means a binding, written agreement between two or more persons spelling out terms and conditions and includes, but is not limited to, warranties or guarantees for pesticide application. For structural pest control applications, the contract shall also include a statement, plat, or diagram showing all locations of visible termites and termite damaged materials which are observed, and how the application was performed;

12. "Defoliant" means any pesticide intended to cause the leaves or foliage to drop from a plant, with or without causing abscission;

13. "Desiccant" means any pesticide intended to artificially accelerate the drying of plant tissues;

14. "Device" means any instrument subject to the United States Environmental Protection Agency regulation intended for trapping,

destroying, repelling, or mitigating insects or rodents, or mitigating fungi, bacteria, or weeds, or other pests designated by the Board, but not including equipment used for the application of pesticides when sold separately;

15. "Direct supervision" means that the certified applicator is responsible for assuring that persons working, subject to direct supervision, are qualified to handle pesticides and are instructed in the application of the specific pesticides used in each particular application conducted which is subject to their supervision. Certified applicators shall be accessible to the noncertified applicator at all times during the application of the pesticide by telephone, radio, or any device approved by the Board;

16. "Fungi" means all nonchlorophyll-bearing thallophytes, including, but not limited to, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on humans or animals;

17. "Fungicide" means any pesticide intended for preventing, destroying, repelling, or mitigating any fungi or bacteria;

18. "Ground equipment" means any machine, equipment, or device other than aircraft designed for use, adaptable for use, or used on land or water in applying pesticides as sprays, dusts, aerosols, fogs, or other forms;

19. "Herbicide" means any pesticide intended for preventing, destroying, repelling, desiccating, or mitigating any weed, or for defoliating plants, preventing fruitdrop, and inhibiting sprouting;

20. "Inert ingredient" means an ingredient, which is not an active ingredient;

21. "Ingredient statement" means a statement containing the name and percentage of each active ingredient, and the total percentage of all inert ingredients in the pesticide. If the pesticide contains arsenic in any form, the percentages of total and water-soluble arsenic shall each be calculated as elemental arsenic;

22. "Insect" means any of the numerous small invertebrate six-legged animals generally having the body more or less obviously segmented, many belonging to the class Insecta, including, but not limited to, beetles, bugs, and flies as well as allied classes of arthropods including spiders, mites, ticks, centipedes, and wood lice;

23. "Insecticide" means any pesticide intended for preventing, destroying, repelling, or mitigating any insects which may be present in any environment;

24. "Label" means the written, printed, or graphic matter attached to the pesticide, device, or container including the outside container or wrapper of the retail package of the pesticide or device;

25. "Labeling" means all labels and other written, printed, or graphic material:

- a. upon the pesticide, device, or any of its containers or wrappers,
- b. accompanying the pesticide or device at any time, or
- c. to which reference is made on the label or in literature accompanying the pesticide or device except when accurate, nonmisleading reference is made to current official publications of the United States Environmental Protection Agency, United States Department of Agriculture, United States Department of the Interior, the United States Public Health Service, State Experiment Stations, State Agricultural Colleges, or other federal institutions or official agencies of this state or other states authorized by law to conduct research in the field of pesticides;

26. "License" means a written document issued to a person by the Board which shows that the person has met all established licensing requirements established by the Combined Pesticide Law and who is authorized to apply pesticides as a commercial, noncommercial, or private applicator pursuant to the license issued;

27. "Minimum standards" means the measures prescribed by the Board to bring appropriate pesticide services to the public;

28. "Misbranded" means and includes:

- a. any pesticide or device if its labeling bears any statement, design, or graphic representation relative to its ingredients which is false or misleading, or
- b. any pesticide or device:
 - (1) if it is an imitation of or is offered for sale under the name of another pesticide or device,
 - (2) if its labeling bears any reference to registration under the Combined Pesticide Law,
 - (3) if the labeling accompanying it does not contain instructions for use which are necessary and, if complied with, adequate for the protection of the public,
 - (4) if the label does not contain a warning or caution statement which may be necessary and, if complied with, adequate to prevent injury to humans and vertebrate animals,
 - (5) if the label does not bear an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there is one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase,
 - (6) if any word, statement, or other information required by or under the authority of the Combined

- Pesticide Law to appear on the labeling is not prominently placed with conspicuousness, as compared with other words, statements, designees, or graphic matter in the labeling, and in terms likely to be read and understood by an individual under customary conditions of purchase and use, or
- (7) if in the case of an insecticide, fungicide, or herbicide, when used as directed or in accordance with commonly recognized practice, it shall be injurious to humans, vertebrate animals, or vegetation, except weeds, to which it is applied, or to the person applying the pesticide;

29. "Noncommercial applicator" means any person, other than a commercial or private applicator, who uses or supervises the use of a restricted-use pesticide. The noncommercial applicator shall be under the supervision of an owner or manager of property and who is certified in the same manner as a commercial applicator. A noncommercial applicator is subject to all requirements except those pertaining to financial responsibility. Noncommercial applicator includes a government employee applying restricted-use pesticides in the discharge of official duties;

30. "Nonrestricted-use pesticide" means any pesticide, other than a pesticide classified as restricted-use pesticide;

31. "Nonrestricted-use pesticide dealer" means any person engaged in the sale, storage, or distribution of any pesticide other than those pesticides classified by the United States Environmental Protection Agency or the Board as restricted-use pesticides;

32. "Permit" means a written document issued by the Board which shows that a person has met all of the permitting requirements established by the Combined Pesticide Law and is authorized to sell pesticides as a restricted-use or nonrestricted-use pesticide dealer in accordance with the type of permit issued;

33. "Pest" means any organism harmful to man including, but not limited to, insects, mites, nematodes, weeds, and pathogenic organisms. Pathogenic organisms include viruses, mycoplasma, bacteria, rickettsia, and fungi which the Board declares to be a pest;

34. "Pesticide" means a substance or mixture of substances intended for defoliating or desiccating plants, preventing fruitdrop, inhibiting sprouting, or for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, bacteria, weeds, or other forms of plant or animal life or viruses, which the Board declares to be a pest, except viruses on or in humans or animals;

35. "Private applicator" means 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;

36. "Registrant" means the person registering any pesticide or device pursuant to the provisions of the Combined Pesticide Law;

37. "Restricted-use pesticide" means any pesticide classified for restricted use by the United States Environmental Protection Agency, either by regulation or through the registration process, or by the Board pursuant to the Oklahoma Agricultural Code;

38. "Restricted-use pesticide dealer" means any person engaged in the sale, storage, or distribution of restricted-use pesticides;

39. "Rodenticide" means any pesticide intended for preventing, destroying, repelling, or mitigating rodents or any other animal which the Board declares a pest;

40. "Service technician" means a person employed by a licensed commercial or noncommercial applicator who applies the pesticide or employs a device, but is not a certified applicator. A service technician or certified applicator shall be present at each application performed;

41. "Temporary certified applicator" means a person who has successfully completed the written examinations required for certification but has not successfully completed the practical examination;

42. "Use" means transportation, storage, mixing, application, safe handling, waste and container disposal, and other specific instructions contained on the label and labeling;

43. "Weed" means any plant or plant part which grows where not wanted; and

44. "Wood infestation report" means a document issued with a property transaction which shall, at a minimum, contain statements or certifications as to the presence or absence of termites and any other wood destroying insects, and the presence or absence of damage. The wood infestation report does not include a bid or proposal for treatment.

Added by Laws 1961, p. 1, § 1. Amended by Laws 1977, c. 98, § 4; Laws 1984, c. 156, § 1, eff. Nov. 1, 1984; Laws 1986, c. 285, § 1, eff. Nov. 1, 1986; Laws 2000, c. 367, § 10, emerg. eff. June 6, 2000; Laws 2002, c. 383, § 1, eff. July 1, 2002; Laws 2007, c. 200, § 4, eff. Nov. 1, 2007; Laws 2014, c. 280, § 1, eff. Nov. 1, 2014.

§2-3-82. License, permit, and registration requirements - Categories of licenses and permits - Certification standards - Fees - Liability insurance - Damages - Expirations - Pesticide producing establishments - Complaints.

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.

2. A license may be issued by the Board in any category of pesticide application if the applicant qualifies and the applicant is limited to the category of pesticide application named on the license. The Board may establish categories of pesticide application as necessary. Licenses shall be issued upon application to the Board on a form prescribed by the Board. The application shall contain information regarding the applicant's qualifications, proposed operations, and other information as specified by the Board.

3. a. An aerial license shall not be issued or be valid unless the applicant files with the Board a copy of a valid document issued by the Federal Aviation Administration showing that the person is qualified to operate or supervise the operation of an aircraft conducting agricultural operations. Applicants for an aerial license and pilots working under a license may be subject to a complete and thorough background examination.

b. The Board shall promulgate rules regarding aerial applicators and applications consistent with federal law and shall solicit the assistance of the Federal Aviation Agency in the enforcement of this subsection.

4. Each business location shall require a separate license and separate certified applicator except that a certified applicator for a noncommercial business location may also serve as the certified applicator for one commercial business location.

5. A license shall not be issued for the category of pesticide application of any applicant or representative who has a temporary certification.

B. CERTIFICATION REQUIRED - 1. A license shall be issued only after satisfactory completion of the certification standards by the person who shall be the certified applicator under the license. Temporary certified applicators do not qualify as the certified applicator for a license, nor may they act as a certified applicator. The Board shall deny the application for certification, recertification, issuance, or renewal of a certificate or license for a failure to show proper qualification under the rules or for violations of any provisions of this section. A certificate in any category shall be valid for five (5) years unless suspended, canceled, or revoked by the Board or until recertification is required for the category, and may be renewed after successful completion of recertification requirements. The Board may require certified applicators to be recertified once in a five-year period.

2. A certified service technician identification shall be issued upon application and completion of certification standards determined

by the Board. Temporary certified applicators may qualify as a certified service technician. No person shall act, do business as, or advertise as a service technician unless the person has met all the qualifications and standards as required by the Board. The service technicians' identification shall be issued in the name of the licensed entity. The licensee shall ensure that the service technician identification is returned to the Board upon termination of the employee. A service technician identification shall be valid for a period of five (5) years unless suspended, canceled, or revoked by the Board, until recertification is required by the Board, or until the service technician leaves the employ of the licensed entity. The Oklahoma Department of Agriculture, Food, and Forestry may issue a service technician identification upon completion of the following:

- a. a determination is made by the Department that the applicant has successfully completed the written examination,
- b. the licensed entity provides a completed service technician identification application form at the time of testing, and
- c. all appropriate fees are paid at the time of testing.

3. Each license, except for private applicators, 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 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 one-hundred-dollar penalty shall be paid prior to license renewal.

All private applicator licenses are in effect for five (5) years and may be renewed by application after completion of a continuing education program or written exam approved by the Board.

C. The following fees shall be paid to the Board:

1. A fee of One Hundred Dollars (\$100.00) for each category of pesticide application shall be paid to the Board for the issuance or renewal of a commercial applicator business license. Not more than Five Hundred Dollars (\$500.00) total category fees shall be charged annually to any business location of an applicator;
2. A fee of Fifty Dollars (\$50.00) shall be paid to the Board for each written examination conducted by the Board;
3. A fee of Fifty Dollars (\$50.00) shall be paid to the Board for each practical examination conducted by the Board;
4. A fee of Twenty Dollars (\$20.00) shall be paid to the Board for the issuance or renewal of a private applicator's license;

5. A fee of Fifty Dollars (\$50.00) shall be paid to the Board for the issuance or renewal of a noncommercial business license. Not more than Two Hundred Fifty Dollars (\$250.00) total category fees shall be charged annually to any noncommercial business location of an applicator;

6. A fee of Twenty Dollars (\$20.00) shall be paid to the Board for the issuance or renewal of service technician identification;

7. A fee of Ten Dollars (\$10.00) shall be paid to the Board for the issuance of duplicate licenses or certificates or transfer of service technician identification;

8. A fee of Fifty Dollars (\$50.00) shall be paid to the Board for each recertification procedure; and

9. A fee of One Hundred Dollars (\$100.00) shall be paid to the Board for each reciprocal certification procedure for applicator certifications.

D. All fees shall be deposited in the State Department of Agriculture Revolving Fund.

E. Fees shall be paid to the Board prior to the processing of any application.

F. Failure to pay any fee identified with licenses, permits, pesticide registrations, or certification shall require the Board to deny the application.

G. INSURANCE REQUIRED - 1. The Board shall not issue a commercial applicator's license until the applicant has furnished evidence of an insurance policy or certificate by an insurer or broker authorized to do business in this state insuring the commercial applicator and any agents against liability resulting from the operations of the commercial applicator. The insurance shall not be applied to damage or injury to agricultural crops, plants, or land being worked upon by the commercial applicator.

2. The amount of liability shall not be less than that set by the Board for each property damage arising out of actual use of any pesticide. The liability shall be maintained at not less than that sum at all times during the licensing period. The Board shall be notified fifteen (15) days prior to any reduction in liability.

3. If the furnished liability becomes unsatisfactory, the applicant shall immediately execute new liability upon notice from the Board. If new liability is not immediately obtained, the Board shall, upon notice, cancel the license. It shall be unlawful for the person to engage in the business of applying pesticides until the liability is brought into compliance and the license reinstated.

H. DAMAGES - 1. Prior to filing an action against an applicator for damages to growing crops or plants, any person alleging damages to growing crops or plants shall:

- a. within ninety (90) calendar days of the date that the alleged damages occurred or prior to the time that twenty-five percent (25%) of the allegedly damaged

crops or plants are harvested, whichever occurs first, file a written complaint statement with the Department regarding the alleged damages, and

- b. between the date of filing of the written complaint pursuant to subparagraph a of this paragraph and the date harvesting or destruction of the allegedly damaged crops or plants occurs, allow the applicator and the representatives of the applicator reasonable access to the property to inspect and take samples of the allegedly damaged crops or plants during reasonable hours. The representatives of the applicator may include, but not be limited to, crop consultants, bondsmen, and insurers. Nothing in this subparagraph shall limit in any way the harvesting or destruction of the allegedly damaged crops or plants in the ordinary course of business and practice.

2. Any person failing to comply with paragraph 1 of this subsection shall be barred from filing an action for damages against the applicator.

I. PERMIT REQUIRED - 1. It shall be unlawful for any person to sell, offer for sale, or distribute within this state any restricted use pesticide without first obtaining a restricted use pesticide dealer's permit issued by the Board.

2. A permit may be issued by the Board in any category of pesticide sales if the applicant qualifies under the provisions of this section and the applicant is limited to the category of pesticide sales named on the permit. The Board may establish categories of pesticide sales as necessary.

3. The permit shall be issued only upon application on a form prescribed by the Board and the application shall contain information regarding the applicant's proposed operation and other information as specified by the Board.

4. Each business location engaged in the sale or distribution of restricted use pesticides shall require a separate permit.

5. The annual permit fee for a restricted use pesticide dealer permit shall be Fifty Dollars (\$50.00) for each location.

6. The Board may require a certified applicator to be present at any location where designated restricted use pesticide sales occur.

J. PESTICIDE REGISTRATION REQUIRED - 1. Every pesticide or device distributed, sold, or offered for sale within this state or delivered for transportation or transported in intrastate or interstate commerce shall be registered with the Board.

2. The registrant shall file with the Board a statement including, but not limited to:

- a. the name and address of the registrant and the name and address of the person whose name shall appear on the label, if other than the registrant,

- b. the name of the pesticide or device,
- c. a complete copy of the labeling accompanying the pesticide or device and a statement of all claims to be made for it, and directions for use, and
- d. if requested by the Board, a full description of the tests made and the results upon which the claims are based. In renewing a registration, a statement shall be required only with respect to information which is different from the information furnished when the pesticide or device was last registered.

3. Each registrant shall pay to the Board an annual registration fee of Two Hundred Ten Dollars (\$210.00) for each pesticide or device label registered. These fees shall be used by the Oklahoma Department of Agriculture, Food, and Forestry for purposes of administering pesticide management programs. A portion of these fees, in the amount of Three Hundred Thousand Dollars (\$300,000.00) annually, shall be dedicated for conducting programs for unwanted pesticide disposal. This amount shall be deposited into the State Department of Agriculture Unwanted Pesticide Disposal Fund and shall be dedicated for this use only.

4. The Board may require the submission of the complete formula of any pesticide. Trade secrets and formulations submitted by the registrant may be kept confidential. If it appears to the Board that the composition of the pesticide is adequate to warrant the proposed claims and if the pesticide, its labeling, and other material required to be submitted comply with the requirements of this section, then the pesticide shall be registered.

5. If it does not appear to the Board that the pesticide or device is adequate to warrant the proposed claims for it or if the pesticide or device, its labeling, and other material required to be submitted do not comply with the provisions of this section, it shall notify the applicant of the deficiencies in the pesticide, device, labeling, or other material required and afford the applicant an opportunity to make the necessary corrections. If the applicant claims, in writing, that the corrections are not necessary and requests in writing a hearing regarding the registration of the pesticide or device, the Board shall provide an opportunity for a hearing before refusing to issue the registration. In order to protect the public, the Board may at any time cancel the registration of a product or device. In no event, shall registration of a pesticide or device be considered as a defense or excuse for the commission of any offense prohibited under this section.

6. The Board may require that pesticides be distinctively colored or discolored to protect the public health.

7. Registration shall not be required in the case of a pesticide shipped from one plant or place within this state to another plant or place within this state that is operated by the same person.

K. CATEGORIES OF LICENSES AND PERMITS - The Board may establish any category of license for pesticide application or any category of permit for pesticide sales.

L. PERMIT AND PESTICIDE REGISTRATION EXPIRATION - 1. All permits for pesticide sales shall be issued for a period of one (1) year and the permits shall be renewed annually and shall expire on a date determined by the Board. A permit may be renewed for the ensuing year, without penalty, if a properly completed application is filed with the Board not later than the fifteenth day of the month first following the date of expiration. 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.

2. All pesticide registrations shall be issued for a period of one (1) year. The registration shall be renewed annually and shall expire on a date to be determined by the Board. Pesticide registrations may be renewed for the ensuing year, without penalty, if a properly completed application is filed with the Board not later than the fifteenth day of the month first following the date of expiration. 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 pesticide registration.

M. PESTICIDE PRODUCING ESTABLISHMENTS - 1. Definitions as used in this subsection:

- a. "establishment" means any site where a pesticide product, active ingredient or device is produced within the state,
- b. "produce" means to manufacture, prepare, propagate, compound or process any pesticide or to package, repackage, label, relabel or otherwise change the container of any pesticide or device, and
- c. "producer" means any person who produces, manufactures, prepares, compounds, propagates or processes any active ingredient, pesticide, or device as used in producing a pesticide.

2. It shall be unlawful for any person to produce within this state any pesticide, active ingredient or device without first obtaining a pesticide producer establishment permit issued by the Board.

3. The permit shall be issued only upon application on a form prescribed by the Board. The application shall contain information regarding the proposed operation of the applicant and other information as specified by the Board. If at any time there is a change of the information provided in or on the application for a pesticide producer establishment permit, the producer must notify the Board in writing within thirty (30) calendar days of the change.

4. The producer shall file a statement with the Board including but not limited to:

- a. the name and address of the company,
- b. the name and address of the establishment as well as the physical location, if different than the mailing address,
- c. the name of any pesticide, active ingredient, or device, and
- d. the name and address and other pertinent contact information for the responsible party.

5. All permits for pesticide producer establishments shall be issued for a period of one (1) year and shall be renewed annually. All permits shall expire on June 30 each year and may be renewed without penalty if a properly completed application is filed with the Board not later than the fifteenth day of the month first following the date of expiration. 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.

6. Each pesticide producer establishment location engaged in the production of pesticides, active ingredients or devices shall require a separate permit.

7. The annual permit fee for a pesticide producer establishment shall be One Hundred Dollars (\$100.00) for each location.

8. If requested by the Board, a complete copy of all labeling, Material Safety Data Sheets, technical information associated with the pesticide, active ingredient, or device and a statement of all claims to be made as well as directions and use must be submitted to the Board.

9. In order to determine compliance with state and federal laws, the Board may request a full disclosure of inventory records, sales and distribution records, and any other information deemed necessary by the Board.

10. Every producer shall keep accurate records pertaining to pesticide, active ingredient, or device production and distribution as required by the Board. The records of the producer shall be kept intact at the principal producing location in this state for at least two (2) years after the date of production and distribution and copies shall be furnished to any authorized agent of the Board, immediately upon request in person, at any time during the regular business hours of the producer. Copies of records shall be furnished to any authorized agent of the Board within seven (7) working days of a written request, in summary form, by mail, fax, e-mail, website, or any other electronic media customarily used.

N. COMPLAINT RESOLUTION - Upon receipt of a written complaint, the Board shall notify the person filing the complaint in writing of its receipt and status within two (2) working days. The person whom the complaint is filed against shall also be notified within two (2) working days. Notification that a complaint has been filed may also be given to the landowner or operator when appropriate. The

resolution of a complaint is the completion of the appropriate administrative, jurisdictional, or legal remedies to the extent possible by the Department. The complainant shall be notified in writing within seven (7) working days after resolution of the complaint.

Added by Laws 1961, p. 2, § 2, operative July 1, 1961. Amended by Laws 1965, c. 298, § 1; Laws 1965, c. 509, § 1, emerg. eff. July 20, 1965; Laws 1968, c. 105, § 1, emerg. eff. April 1, 1968; Laws 1970, c. 111, § 1; Laws 1977, c. 98, § 5; Laws 1984, c. 156, § 2, eff. Nov. 1, 1984; Laws 1986, c. 285, § 2, eff. Nov. 1, 1986; Laws 2000, c. 367, § 11, emerg. eff. June 6, 2000; Laws 2002, c. 383, § 2, eff. July 1, 2002; Laws 2003, c. 410, § 1; Laws 2004, c. 109, § 1; Laws 2005, c. 42, § 1, eff. July 1, 2005; Laws 2011, c. 287, § 1; Laws 2017, c. 239, § 1, eff. Nov. 1, 2017.

NOTE: A former § 3-82 of this title was repealed by Laws 1961, p. 3, § 7, operative July 1, 1961.

§2-3-82.1. Unwanted Pesticide Disposal Fund.

There is hereby created in the State Treasury a fund for the State Board of Agriculture to be designated the State Department of Agriculture "Unwanted Pesticide Disposal Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Board of Agriculture to implement and maintain the Unwanted Pesticide Disposal Program. On July 1, 2005, the Oklahoma Department of Agriculture, Food, and Forestry shall transfer all money in the State Department of Agriculture Revolving Fund which has been designated by law for conducting programs for unwanted pesticide disposal to the Unwanted Pesticide Disposal Fund.

Added by Laws 2005, c. 42, § 2, eff. July 1, 2005.

§2-3-83. Keeping of records - Board audits.

A. Every commercial and noncommercial applicator shall keep accurate records pertaining to pesticide activities, applications, and wood infestation reports, as required by the State Board of Agriculture. The records of the applicator shall be kept intact at the principal business location in this state for at least two (2) years after their date of expiration and copies shall be furnished to any authorized agent of the Board, immediately upon request in person, at any time during the regular business hours of the applicator. Copies of records shall be furnished to any authorized agent of the Board within seven (7) working days of a written request, in summary form, by mail, fax, e-mail, web site, or any other electronic media customarily used.

B. Every restricted use pesticide dealer shall keep accurate records pertaining to restricted use pesticide purchases and sales, as required by the Board. The records shall be kept intact at the

principal business location in this state for at least two (2) years after their date of expiration. Copies shall be furnished to any authorized agent of the Board at any time during the regular business hours of the dealer, immediately upon request in person, or within seven (7) working days of a written request, in summary form, by mail, fax, e-mail, web site, or any other electronic media customarily used.

C. It shall be the duty of the Board to audit the maintenance of records as necessary to carry out the provisions of the Oklahoma Agriculture Code.

Added by Laws 1961, p. 2, § 3. Amended by Laws 1967, c. 278, § 1, emerg. eff. May 8, 1967; Laws 1977, c. 98, § 6; Laws 1984, c. 156, § 3, eff. Nov. 1, 1984; Laws 2000, c. 367, § 12, emerg. eff. June 6, 2000.

§2-3-84. Declaration of pest - Rules - Requirements.

A. The Board shall have the authority to declare any form of plant or animal life or virus which is injurious to plants, humans, domestic animals, articles, or substances as a pest. The Board shall have the authority to classify pesticide uses as being general, restricted, or both, to determine standards of coloring or discoloring for pesticides, and to subject pesticides to the requirements of this section.

B. The Board shall promulgate appropriate rules for carrying out the provisions of this section.

C. The Board shall, to the extent practical, create uniformity between the requirements of Oklahoma and those prescribed by the Federal Insecticide, Fungicide and Rodenticide Act, as amended. Added by Laws 1961, p. 3, § 4, operative July 1, 1961. Amended by Laws 1965, c. 324, § 1, emerg. eff. June 28, 1965; Laws 1977, c. 98, § 7; Laws 2000, c. 367, § 13, emerg. eff. June 6, 2000; Laws 2004, c. 109, § 2; Laws 2014, c. 280, § 2, eff. Nov. 1, 2014.

§2-3-85. Enforcement - Rules and standards - Examination, notice and seizure - Exceptions - Environmental jurisdiction - Compliance with federal law.

A. 1. The State Board of Agriculture shall administer and enforce the provisions of the Oklahoma Combined Pesticide Law.

2. The State Board of Agriculture shall promulgate rules and standards for the application, use or sale of pesticides, rules for pesticide registration, standards for contracts and recordkeeping, work performance, prescribe standards for the licensing of application of pesticides, issuing pesticide dealer permits, certification, recertification procedures, and storing and disposal of pesticide and pesticide containers.

3. The Board shall, to the extent practical, create uniformity between the requirements of Oklahoma and those prescribed by the Federal Insecticide, Fungicide and Rodenticide Act.

4. The Board is empowered to cooperate with and negotiate reciprocal agreements with the federal government or any state, or any department or agency of either for the purpose of fulfilling the intent of this section and securing uniformity of rules.

5. The Board may inspect any work, records, or contracts of each applicator, manufacturer, or dealer to determine whether or not the work is performed according to the provisions of this section or rules promulgated thereunder.

6. For the purpose of securing uniformity of rules, no city, town, county, or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation, or statute regarding pesticide sale or use that is more stringent than the rules of the Board, including, but not limited to, registration, notification, posting, advertising and marketing, distribution, applicator training and certification, storage, transportation, disposal, disclosure of confidential information, or product composition.

7. The Board may take samples of pesticide materials in order to determine their concentration or residue level. If the Board finds that such samples are not within established standards, the Board's finding shall be considered prima facie evidence that a violation has occurred.

- a. The concentration of an active ingredient for a pesticide concentrate, shall not exceed or be less than the concentration of active ingredient stated on the pesticide label by more or less than the tolerance for active ingredient concentration specified by this paragraph. Concentrations above or below the established tolerance shall be prima facie evidence that a pesticide is adulterated or misbranded:
 - (1) pesticides with a stated concentration of active ingredient less than 0.51% shall not exceed 150% or fail to meet 80% of the stated active ingredient on the pesticide label when analyzed,
 - (2) pesticides with a stated concentration of active ingredient not less than 0.51% and not more than 1.0% shall not exceed 140% or fail to meet 85% of the stated active ingredient on the pesticide label when analyzed,
 - (3) pesticides with a stated concentration of active ingredient not less than 1.01% and not more than 5.00% shall not exceed 140% or fail to meet 90% of the stated active ingredient on the pesticide label when analyzed,

- (4) pesticides with a stated concentration of active ingredient not less than 5.01% and not more than 10.00% shall not exceed 130% or fail to meet 92% of the stated active ingredient on the pesticide label when analyzed,
 - (5) pesticides with a stated concentration of active ingredient not less than 10.01% and not more than 50.00% shall not exceed 125% or fail to meet 94% of the stated active ingredient on the pesticide label when analyzed, and
 - (6) pesticides with a stated concentration of active ingredient not less than 50.01% and more than 100.00% shall not exceed 115% or fail to meet 96% of the stated active ingredient on the pesticide label when analyzed.
- b. The concentration of an active ingredient for a pesticide concentrate in fertilizer and pesticide mixtures, pressed blocks and nonuniform baits shall not be less than the concentration of active ingredient stated on the pesticide label for the tolerance for active ingredient concentration specified by this paragraph. Concentrations below the established tolerance shall be prima facie evidence that a pesticide is adulterated or misbranded:
 - (1) when the stated concentration of active ingredient on the pesticide label is less than 1.26% the minimum amount of active ingredient shall be at least 67.0% of the stated concentration on the pesticide label when analyzed,
 - (2) when the stated concentration of active ingredient on the pesticide label is not less than 1.26% or more than 5.0% the minimum amount of active ingredient shall be at least 80.0% of the stated concentration on the pesticide label when analyzed, and
 - (3) when the stated concentration of active ingredient on the pesticide label is more than 5.0% the minimum amount of active ingredient shall be at least 85.0% of the stated concentration on the pesticide label when analyzed.
- c. The concentration of an active ingredient for a pesticide concentrate in rotenone, pyrethrin and other natural product formulations shall not be less than the concentration of active ingredient stated on the pesticide label for the tolerance for active ingredient concentration specified by this paragraph. Concentrations below the established tolerance shall be

prima facie evidence that a pesticide is adulterated or misbranded:

- (1) when the stated concentration of active ingredient on the pesticide label is less than 0.51% the minimum amount of active ingredient shall be at least 70.0% of the state concentration on the pesticide label when analyzed,
- (2) when the stated concentration of active ingredient on the pesticide label is not less than 0.51% or more than 1.25% the minimum amount of active ingredient shall be at least 80.0% of the stated concentration on the pesticide label when analyzed, and
- (3) when the stated concentration of active ingredient on the pesticide label is more than 1.25% the minimum amount of active ingredient shall be at least 85.0% of the stated concentration on the pesticide label when analyzed.

d. The concentration of an active ingredient for a pesticide tank mix, as stated by the applicator and allowed by the pesticide label, shall not exceed or be less than the concentration of active ingredient stated by more or less than the tolerance for active ingredient concentration specified by this paragraph. Concentrations above or below the established tolerance shall be prima facie evidence of a use unsuitable, unsafe or inconsistent with its label or labeling. No pesticide shall be formulated into a tank mix at a concentration in excess of or below that permitted by the pesticide label without written approval from an authorized agent of the Oklahoma Department of Agriculture, Food, and Forestry:

- (1) when the stated concentration or that allowed by the pesticide label is less than 0.51% the minimum amount of active ingredient in the tank mix shall be at least 60.0% and not more than 150.0% of the stated concentration or that allowed by the pesticide label when analyzed,
- (2) when the stated concentration or that allowed by the pesticide label is not less than 0.51% and not more than 1.0% the minimum amount of active ingredient in the tank mix shall be at least 70.0% and not more than 140.0% of the stated concentration or that allowed by the pesticide label when analyzed,
- (3) when the stated concentration or that allowed by the pesticide label is not less than 1.01% and not

more than 5.0% the minimum amount of active ingredient in the tank mix shall be at least 80.0% and not more than 140.0% of the stated concentration or that allowed by the pesticide label when analyzed,

- (4) when the stated concentration or that allowed by the pesticide label is not less than 5.01% and not more than 10.0% the minimum amount of active ingredient in the tank mix shall be at least 84.0% and not more than 130.0% of the stated concentration or that allowed by the pesticide label when analyzed,
- (5) when the stated concentration or that allowed by the pesticide label is not less than 10.01% and not more than 50.0% the minimum amount of active ingredient in the tank mix shall be at least 88.0% and not more than 125.0% of the stated concentration or that allowed by the pesticide label when analyzed, and
- (6) when the stated concentration or that allowed by the pesticide label is not less than 50.01% and not more than 100.0% the minimum amount of active ingredient in the tank mix shall be at least 92.0% and not more than 115.0% of the stated concentration or that allowed by the pesticide label when analyzed.

e. The State Board of Agriculture may promulgate, by rule, maximum and minimum concentrations or thresholds for the other concentrate of pesticides in products, or soil residues.

B. Authorized agents of the Board shall have the authority to issue notices of violation, citations, compliance orders, stop sales, or stop work orders to those persons committing violations of the laws or rules relating to pesticides or pesticide application in this state.

C. 1. Examinations of pesticides or devices shall be made under the direction of the Board for the purpose of determining if there has been compliance with the requirements of this section.

2. If it appears from examination that a pesticide or device fails to comply with the provisions of this section, and the Board contemplates instituting administrative proceedings against any person, the Board shall cause notice and an opportunity for a hearing given to the person pursuant to the Administrative Procedures Act.

D. 1. Any pesticide or device distributed, sold, or offered for sale within this state or delivered for transportation or transported in intrastate or interstate commerce may be seized by the Oklahoma

Department of Agriculture, Food, and Forestry in any county of the state where it may be found and if:

- a. in the case of a pesticide, it is adulterated or misbranded, it has not been registered, it fails to bear on its label the required information, or it is a white powder pesticide and it is not colored as required, or
- b. in the case of a device, it is misbranded.

2. If the pesticide or device is condemned it shall, after entry of decree or judgment of a district court, be disposed of by destruction or sale as the court may direct. If the article is sold, the proceeds, less court costs, shall be paid to the State Department of Agriculture Revolving Fund.

3. The court shall not order the sale or disposal of a condemned pesticide or device in a manner which would be a violation of this section or rules promulgated thereto.

4. The person or entity directed to dispose or sell the condemned pesticide or device shall do so in a manner that complies with the order of the district court and this section and rules promulgated thereto.

5. The court may direct that the pesticide or article be delivered to the owner for relabeling or reprocessing.

6. If there is a person who is successful in intervening as claimant of the pesticide or device, when a decree of judgment of condemnation is entered against the pesticide or device, court costs, fees, storage, and other proper expenses shall be awarded against such claimant.

E. The Board may, by publication in a manner as it may prescribe, give notice of all judgments entered in action, instituted under its authority .

F. All authority vested in the Board shall with like force and effect be executed by its officers, employees, and authorized agents.

G. EXCEPTION - The fines provided for violations may not apply to:

1. Any carrier while lawfully engaged in transporting a pesticide within this state, if the carrier permits the Board upon request to copy all records showing the transaction in and movement of the pesticide and devices involved;

2. Public officials of this state and of the Federal Government engaged in the performance of official duties;

3. The manufacturer or shipper of a pesticide or device for experimental use only, by or under the supervision of an agency of this state or of the Federal Government authorized by law to conduct research in the field of pesticides or devices, or by others if the pesticide or the device is not sold or if the container is plainly and conspicuously marked "for experimental use only - not to be sold", together with the manufacturer's name and address, if a

written permit has been obtained from the Board. Pesticides or devices may be sold for experimental purposes subject to restrictions set forth in the permit; and

4. Pesticides and devices intended solely for export to a foreign country, and prepared or packed according to the specifications or directions of the purchaser. If not exported, all of the provisions of this section shall apply.

H. 1. The Department of Environmental Quality shall have environmental jurisdiction over:

- a. commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mill and other agricultural products,
- b. slaughterhouses, but not including feedlots at these facilities, and
- c. aquaculture and fish hatcheries, including, but not limited to, discharges of pollutants and storm water to waters of the state, surface impoundments and land application of wastes and sludge, and other pollution originating at these facilities; and

2. Facilities which store grain, feed, seed, fertilizer, and agricultural chemicals that are required by federal National Pollutant Discharge Elimination Systems (NPDES) regulations to obtain a permit for storm water discharges shall only be subject to the jurisdiction of the Department of Environmental Quality with respect to such storm water discharges.

I. This section shall not prevent any political subdivision from complying with any applicable federal law or regulation. A political subdivision which takes any action prohibited by this title in order to comply with federal requirements shall notify the Board of its compliance plan prior to taking any action. The Board may assist the political subdivision in complying with federal requirements necessary to carry out the policy of this section. The Board may permit a political subdivision to impose standards more stringent than required by the Board if necessary for the political subdivision to comply with federal requirements.

Added by Laws 1961, p. 3, § 5, operative July 1, 1961. Amended by Laws 1977, c. 98, § 8; Laws 1984, c. 156, § 4, eff. Nov. 1, 1984; Laws 1992, c. 229, § 2, emerg. eff. May 19, 1992; Laws 2000, c. 367, § 14, emerg. eff. June 6, 2000; Laws 2005, c. 64, § 1, eff. Nov. 1, 2005; Laws 2006, c. 201, § 2, eff. Nov. 1, 2006; Laws 2014, c. 280, § 3, eff. Nov. 1, 2014.

§2-3-86. Denial, suspension, cancellation, revocation or nonrenewal of license, certificate or identification - Violations - Penalties.

A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this

subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds:

1. A person has made misrepresentations for the purpose of defrauding, or has not satisfactorily performed, without proper cause, any contract into which the person entered;

2. A person has negligently used methods or pesticides that are ineffective or improper for the purpose for which they have been employed;

3. A person has operated in a negligent manner, thereby causing a pesticide to drift off-target;

4. A person has used a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained from the Board;

5. Failure or refusal to furnish the Board, upon request, true information regarding methods, pesticides, and safety measures used, work performed, or other information required by the Board, or for making any false statement or representation in the person's application for issuance or renewal of a permit;

6. Any violation of state law or rules or standards prescribed by the Board;

7. The issuance of an inaccurate, misleading, or fraudulent wood infestation report;

8. Failure or refusal to keep and maintain complete and accurate records as specified in this subarticle;

9. Advertising or offering to perform in a category of pesticide application for which no license is held or under a name for which no license is held;

10. Failure or refusal to pay by the specified date any fees, fines, or penalties authorized under this subarticle;

11. Failure to explain in writing in a contract signed by the property owner the ways that a pesticide application fails to comply with any minimum requirements or standards authorized by this article;

12. Failure to perform work according to minimum standards authorized by this subarticle except as agreed by all parties in writing in the contract;

13. Falsely stating that a person is employed by or represents another person;

14. Falsely stating that a person or methods are recommended by any branch of government or that any specific work shall be inspected by any branch of government;

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;

16. Any persons to be employed or represent themselves as certified applicators or service technicians unless they have met the certification standards prescribed by the Board and obtained valid certificates or identifications issued by the Board for the categories for which the persons are to be employed or supervised;

17. Any person to act or operate as a private applicator unless the person has obtained a valid private applicator license issued by the Board;

18. Any person convicted in any court of a violation of this subarticle, pesticide laws of any other state, or the Federal Insecticide Fungicide and Rodenticide Act;

19. Failure to correct substandard work within twenty (20) calendar days of written notification unless an extension has been granted in writing by the Board;

20. Failure to comply with the Worker Protection Standard as defined in the Code of Federal Regulations 40 CFR 170;

21. Failure to comply with the provisions of a citation, stop work order, or stop sale order issued by the Board; or

22. Any other proper cause.

B. Any person, holder or nonholder of a valid license violating any of the provisions of this subarticle 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.

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

1. A pesticide or device which has not been registered pursuant to the provisions of this subarticle, or any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration, or if the

composition differs from its composition as represented in connection with its registration. At the discretion of the Board, a change in the labeling or formula may be made within a registration period without requiring reregistration of the product;

2. A pesticide unless it is in the registrant's or the manufacturer's unbroken original container, does not have a clear and readable label affixed to the original container and to the outside container or wrapper of the retail package, the following information:

- a. the name and address of the manufacturer, registrant, or person for whom manufactured,
- b. the name, brand, or trademark under which the article is sold, and
- c. the net weights or measures of the content subject to reasonable variations as the Board shall permit;

3. In addition to any other requirement any pesticide containing a substance in quantities highly toxic to humans, that does not bear a label containing:

- a. the skull and crossbones,
- b. the word "DANGER" prominently in red, on a background of distinctly contrasting color, and
- c. a statement of an antidote for the pesticide;

4. An adulterated or misbranded pesticide or device;

5. That any person intends to or has distributed, sold, stored, or used any pesticide or device in a manner inconsistent with its labeling;

6. That any person has sold or offered for sale any pesticide or device which has been canceled, suspended, or placed under stop sale except when the Board directs the sale of unused quantities of pesticides whose registrations have been canceled or suspended;

7. A pesticide dealer has sold, offered for sale, or distributed within this state any pesticide without first obtaining a valid pesticide dealer's permit in the appropriate category issued by the Board;

8. A pesticide dealer has failed or refused to keep accurate and complete records, as required by the Board, for a period of at least two (2) years at each business location;

9. A pesticide dealer has failed or refused to provide true and complete information to the Board, upon request, regarding pesticide sales, or other information required by the Board;

10. A person has made any false statement or representation in the person's application for issuance or renewal of a permit;

11. A person has failed or refused to pay by the specified date any fees, fines, or penalties authorized under the Oklahoma Agricultural Code;

12. A person has failed to comply with the provisions of a citation, stop work order, or stop sale order issued by the Board;

13. A person has detached, altered, defaced, or destroyed, in whole or in part, any label or labeling provided for in this subarticle or in rules promulgated by the Board, and added any substance to or taken any substance from a pesticide in a manner that may defeat any of the purposes of this subarticle;

14. A person has used any information concerning formulas for products acquired by authority of this subarticle for personal advantage or revealed such information to another, other than to the Board or proper officials or employees of the state, to the courts of this state in response to a subpoena, physicians, or in emergencies to pharmacists and other qualified person, for use in the preparation of antidotes;

15. A person has violated the state law or rules promulgated by the Board pursuant thereto;

16. Any person has been convicted in any court of a violation of this act, pesticide laws of any other state, or Federal Insecticide Fungicide and Rodenticide Act; or

17. A person determined by the Board to have violated any provision of this subarticle or rules promulgated by the Board.

D. If after notice and an opportunity for hearing in accordance with the Administrative Procedures Act, the Board finds any person to be in violation of any of the provisions of this subarticle or rules promulgated by the Board, the Board has 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. It shall also be unlawful and a misdemeanor for any person, whether or not a commercial or noncommercial license holder, to use a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained by the Board.

E. Except as provided for by law, any person, holder or non-holder of a valid license, registration, permit, certificate, or other identification issued by the Board violating any of the provisions of this subarticle 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) or by imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or both.

Added by Laws 1961, p. 3, § 6, operative July 1, 1961. Amended by Laws 1977, c. 98, § 9; Laws 1984, c. 156, § 5, eff. Nov. 1, 1984; Laws 1986, c. 285, § 3, eff. Nov. 1, 1986; Laws 2000, c. 367, § 15, emerg. eff. June 6, 2000; Laws 2004, c. 109, § 3; Laws 2012, c. 113 § 1, eff. Nov. 1, 2012.

NOTE: A former § 3-86 of this title was repealed by Laws 1961, p. 3, § 7, operative July 1, 1961.

§2-3-89. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-90. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-91. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-92. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-93. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-94. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§s-3-95. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-96. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-100. Short title.

This subarticle shall be known and may be cited as the Oklahoma Apiary Act.

Added by Laws 1988, c. 259, § 1, operative July 1, 1988. Amended by Laws 2000, c. 367, § 16, emerg. eff. June 6, 2000.

§2-3-100.1. Definitions.

For purposes of the Oklahoma Apiary Act:

1. "Abandoned apiary" means any apiary not regularly attended in accordance with good beekeeping practices;

2. "Africanized honeybee" or "*Apis mellifera scutellata*" means a hybridized bee of African descent that at any stage of development is considered a pest to bees, humans, and animals;

3. "Apiary" means a place where one or more colonies or nuclei of bees are kept;

4. "Apiary equipment" means any apparatus, tools, clothing, machines, or other devices used in the handling and manipulation of bees, honey, wax, pollen, propolis, and hives and includes, but is not limited to, any containers of honey or wax that may be used in any apiary, any vehicle used in transporting bees and products, or apiary supplies;

5. "Bee" means any one of the honey-producing genera of *Apis* including any queen, worker, or drone, or any of their four life stages. The term bee includes, but is not limited to, any species of bees used for commercial pollinating purposes;

6. "Beekeeper" means a person who owns, possesses, controls, or manages one or more colonies of bees for any purpose;

7. "Bee disease" means an abnormal condition of the eggs, larvae, pupae, or adult stages of bees that impairs normal functioning;

8. "Certificate of inspection" means a document issued based on an inspection by the Oklahoma Department of Agriculture, Food, and Forestry or other state or province stating that the apiary, bees, and apiary equipment appear free of bee diseases and pests;

9. "Colony" means an aggregate of worker bees, drones, queen, and developing young bees and the hive and its components including comb, honey, propolis, and pollen;

10. "Feral colony" means any colony that is not managed according to good beekeeping practices;

11. "Hive" means any domicile for keeping bees;

12. "Honey house" means any room in any building where honey is extracted, stored in raw form, processed, or packaged;

13. "Migratory beekeeper" means a beekeeper who moves or transports colonies of bees into the state to a more favorable location for the purpose of wintering colonies, increasing the strength of colonies, increasing the number of colonies, providing pollination services, or for honey production;

14. "Nucleus" means any division or portion of a colony that contains comb and bees;

15. "Pest" means any living organism which is responsible, directly or indirectly, for any condition that is or may be harmful or detrimental to bees in any of their four life stages, or interferes with their management including, but not limited to, diseases, parasites, and Africanized honeybees;

16. "Pollination" means the use of bees for the transfer of pollen in crops;

17. "Premise" means any place where bees, colonies, hive, apiary equipment, or honey may be located including, but not limited to, apiaries; and

18. "Quarantine" means, but is not limited to, any order, hold, detainment, affected area, infected premise or area, movement restrictions of any kind, or notice issued by any state or federal entity specifying boundaries or conditions placed on any apiary, apiary equipment, bees, hives, or honey at its location after discovering the presence of a bee disease or pest.

Added by Laws 1988, c. 259, § 2, operative July 1, 1988. Amended by Laws 2000, c. 367, § 17, emerg. eff. June 6, 2000; Laws 2005, c. 135, § 1, eff. Nov. 1, 2005.

§2-3-101. Enforcement of act - Powers of Board.

A. The State Board of Agriculture or its authorized agents shall have the authority to enter any premises or mode of transportation

during reasonable hours for the purpose of implementing the Oklahoma Apiary Act or rules promulgated pursuant thereto.

B. The Board or its authorized agents shall have the authority to carry out all necessary and proper actions to determine compliance with the Oklahoma Apiary Act including, but not limited to, conducting investigations, opening any bundle, package, or container, examining and making photocopies of records or documents, examining devices, collecting and submitting samples for analysis, issuing any order to destroy infected or infested bees or apiary equipment, and removing or destroying bees, hives or other articles as deemed necessary by the Board.

C. The Board is authorized to promulgate rules necessary, expedient, or appropriate for the performance, enforcement, or carrying out of any of the purposes, objectives, or provisions of the Oklahoma Apiary Act, including the establishment of fees. All fees shall be fair and equitable to all parties concerned. Any rules shall be promulgated pursuant to the Administrative Procedures Act.

D. The Board shall have the authority to:

1. Issue, renew, deny, modify, suspend, cancel, and revoke any registration, permit, certificate, license, identification, or order issued pursuant to the provisions of the Oklahoma Apiary Act;
2. Issue certificates of inspection;
3. Issue entry permits to any person transporting bees or apiary equipment into this state;
4. Investigate complaints and violations of the Oklahoma Apiary Act and rules promulgated pursuant thereto;
5. Issue quarantines, initiate control measures, confiscate, and destroy apiaries, bees, colonies, or hives that present a danger to the public safety or welfare; and
6. Exercise all incidental powers as necessary and proper to implement and enforce the provisions of the Oklahoma Apiary Act and the rules of the Board promulgated pursuant thereto.

Added by Laws 1955, p. 17, art. 3(F), § 1, emerg. eff. June 3, 1955. Amended by Laws 1988, c. 259, § 3, operative July 1, 1988; Laws 2000, c. 367, § 18, emerg. eff. June 6, 2000; Laws 2005, c. 135, § 2, eff. Nov. 1, 2005; Laws 2013, c. 118, § 1, eff. Nov. 1, 2013.

§2-3-103. Quarantine - Declaration of bee disease or pest - Order to destroy.

A. Upon the discovery of any bee disease or pest, a premise shall be quarantined by the Oklahoma Department of Agriculture, Food, and Forestry.

B. The State Board of Agriculture shall have the authority to declare any form of bee, plant, animal, or virus that is injurious to bees as a bee disease or pest.

C. Any person receiving a quarantine order shall immediately initiate any and all control measures specified in the quarantine.

D. The quarantine shall remain in effect until officially removed by the Department.

E. When there are no effective control measures available, or the person fails to initiate control, a Board order to destroy the bees and apiary equipment infected or infested with the bee disease or pest may be issued by the Department to prevent the spread of the bee disease or pest.

Added by Laws 1955, p. 17, art. 3(F), § 3, emerg. eff. June 3, 1955. Amended by Laws 1988, c. 259, § 4, operative July 1, 1988; Laws 2000, c. 367, § 19, emerg. eff. June 6, 2000; Laws 2005, c. 135, § 3, eff. Nov. 1, 2005.

§2-3-106. Sales and transport of apiaries, equipment, bees, or hives.

A. A person shall not sell or offer for sale any apiary, apiary equipment, bee, or hive in this state unless free of bee diseases or pests.

B. Any apiary, apiary equipment, bee, or hive shipped or transported interstate shall be accompanied with a certificate of inspection issued by the state of origin.

C. Any person moving or transporting colonies into, within, or through the State of Oklahoma shall secure the colonies in a manner that prevents the escape of bees.

D. Honey or honey products used in shipping cages for the transport or movement of bees shall be boiled for at least thirty (30) minutes.

Added by Laws 1955, p. 17, art. 3(F), § 6, emerg. eff. June 3, 1955. Amended by Laws 1988, c. 259, § 5, operative July 1, 1988; Laws 2000, c. 367, § 20, emerg. eff. June 6, 2000; Laws 2005, c. 135, § 4, eff. Nov. 1, 2005.

§2-3-107. Repealed by Laws 2005, c. 135, § 14, eff. Nov. 1, 2005.

§2-3-113. Voluntary registration program - Location of new apiaries - Abandoned apiaries.

A. The Oklahoma Department of Agriculture, Food, and Forestry, on a form prescribed by the Department, shall establish a voluntary registration program. The program shall be available to any of the following:

1. Any person establishing, maintaining, or locating an apiary within the state;
2. Any person shipping bees into the state; or
3. Migratory beekeepers that transport colonies of bees into the state.

B. The Department shall issue to each registrant a registration identification number. Any person owning an apiary that does not

register with the Department shall be required to post personal contact information at or near their apiary.

C. All registrants shall pay registration fees as established by the State Board of Agriculture. Fees shall be paid to the Board prior to the processing of the registration.

D. The Board shall promulgate rules to establish and administer the voluntary registration program.

E. No person shall locate a new apiary within close proximity to an established apiary if the Department determines that the new apiary presents an imminent danger of spreading bee diseases or pests or interferes with the proper feeding and foraging of an established apiary.

F. If the Department discovers an apiary that does not appear to have a registration identification number, the Department shall make a reasonable effort to locate and notify the beekeeper or owner. If no beekeeper or owner is identified for the apiary, then it may be designated as an abandoned apiary, and the Department may destroy the apiary or donate it to an appropriate research facility.

Added by Laws 1955, p. 19, art. 3(F), § 13, emerg. eff. June 3, 1955. Amended by Laws 1988, c. 259, § 7, operative July 1, 1988; Laws 1992, c. 290, § 1, eff. Sept. 1, 1992; Laws 2000, c. 367, § 22, emerg. eff. June 6, 2000; Laws 2005, c. 135, § 5, eff. Nov. 1, 2005.

§2-3-114. Repealed by Laws 2005, c. 135, § 14, eff. Nov. 1, 2005.

§2-3-116. Certificate of inspection - Pollination or honey production colony inspection - Investigation.

A. For the purposes of obtaining a certificate of inspection, a person may request the Oklahoma Department of Agriculture, Food, and Forestry to conduct an inspection of their apiary, colony, hive, apiary equipment, or premise.

B. Upon completion of inspection, the Department shall issue a certificate of inspection stating that the apiary, the colony, hive, apiary equipment, or premise is either:

1. Apparently free of bee diseases or pests; or

2. Not free of bee diseases or pests and the certificate of inspection contains a list of any and all bee diseases or pests found during the inspection.

C. Any beekeeper who provides colonies of bees for pollination purposes or honey production pursuant to an oral or written contract shall be subject to inspection by the Oklahoma Department of Agriculture, Food, and Forestry for the strength of colonies and the presence of pests. The Department may, upon complaint, investigate any bee colony. Copies of the written contract, if one exists, shall be furnished to the Board upon request.

Added by Laws 1955, p. 19, art. 3(F), § 16, emerg. eff. June 3, 1955. Amended by Laws 1988, c. 259, § 9, operative July 1, 1988; Laws 2000,

c. 367, § 24, emerg. eff. June 6, 2000; Laws 2005, c. 135, § 6, eff. Nov. 1, 2005.

§2-3-117. Inspection fee - Inspection procedures.

A. 1. Any beekeeper who requests inspection of an apiary, colony, hive, apiary equipment, or premise pursuant to the Oklahoma Apiary Act, is subject to an inspection fee as established by the State Board of Agriculture.

2. During an inspection or upon request, the Oklahoma Department of Agriculture, Food, and Forestry may take samples. The manner of sampling, the cost of sampling, and the method of testing shall be established by the Board.

B. Any inspections of an apiary performed at the request of a beekeeper shall be limited to availability of time and personnel.

C. 1. Standard precautions for the prevention of the transmission of bee diseases or pests to humans, animals, and bees shall be followed by the Department when inspecting apiaries pursuant to their official duties specified by the Oklahoma Apiary Act.

2. Except for emergency situations or when enforcement of the provisions of the Oklahoma Apiary Act is required, the Department shall observe the health standards and sanitary requirements of the apiary.

Added by Laws 1955, p. 19, art. 3(F), § 17, emerg. eff. June 3, 1955. Amended by Laws 1988, c. 259, § 10, operative July 1, 1988; Laws 2000, c. 367, § 25, emerg. eff. June 6, 2000; Laws 2005, c. 135, § 7, eff. Nov. 1, 2005.

§2-3-117.1. Requirements for transport of bees into state.

A. Prior to entry into Oklahoma all migratory beekeepers and persons shipping or transporting bees into Oklahoma shall provide the following to the Oklahoma Department of Agriculture, Food, and Forestry:

1. Information required on an entry form prescribed by the Department;

2. An entry inspection fee as established by the Department; and

3. A copy of the certificate of inspection issued from the state of origin.

B. All persons shipping or transporting bees into Oklahoma for sale shall also provide the purchaser with a copy of the certificate of inspection issued from the state of origin.

C. Except for persons in subsection B of this section, all other persons transporting bees into the state shall be required to retain a copy of the certificate of inspection for the duration that the bees remain in Oklahoma and shall be able to present the certificate of inspection upon request by the Department.

D. The Department may inspect any bees or vehicles transporting bees entering the state at any time.

Added by Laws 2005, c. 135, § 8, eff. Nov. 1, 2005.

§2-3-121. Violations.

It shall be unlawful and a violation of the Oklahoma Apiary Act for any person:

1. To refuse to permit an inspection provided for by the Oklahoma Apiary Act, or to hinder or interfere with, in any way, the inspection or the person authorized to make the inspection;
2. To rent a colony of bees to another and misrepresent the strength of a colony;
3. To fail to pay any fee, fine, or penalty as required and established by the Oklahoma Apiary Act or promulgated rules;
4. To retain Africanized honeybees except for approved research purposes pursuant to this act;
5. To knowingly expose comb, honey, frames, empty hives, cover, bottom boards or tools, or other appliances to any material from a diseased colony or apiary or infested with a bee pest;
6. To fail to comply with any State Board of Agriculture order; or
7. To violate any provision of the Oklahoma Apiary Act and the rules promulgated by the Board.

Added by Laws 1955, p. 19, art. 3(F), § 21, emerg. eff. June 3, 1955. Amended by Laws 1988, c. 259, § 11, operative July 1, 1988; Laws 2000, c. 367, § 26, emerg. eff. June 6, 2000; Laws 2005, c. 135, § 9, eff. Nov. 1, 2005.

§2-3-122. Hearing - Emergency order.

A. Whenever the Oklahoma Department of Agriculture, Food, and Forestry determines there are reasonable grounds to believe that there has been a violation of any of the provisions of the Oklahoma Apiary Act, any rule, or any order of the State Board of Agriculture, the alleged violator shall be given the opportunity for a fair hearing in accordance with the provisions of Article II of the Administrative Procedures Act.

B. 1. Whenever the Board finds that an emergency exists requiring immediate action to protect the public health or welfare or to protect bees from any bee disease or pest, it may without notice or hearing issue an order reciting the existence of an emergency and requiring that immediate action be taken to meet the emergency.

2. The order shall be effective upon issuance, but any person to whom an order is directed shall comply immediately but may request within fifteen (15) days after the order is served an administrative enforcement hearing.

3. The hearing shall be held by the Department within ten (10) days after receipt of the request.

4. On the basis of the hearing record, the Board shall affirm, revoke, or modify the order.

5. Any person aggrieved by the final order may appeal to the district court of the area affected within thirty (30) days.

6. The appeal when docketed shall have priority over all cases pending on the docket, except criminal.

Added by Laws 1988, c. 259, § 12, operative July 1, 1988. Amended by Laws 2000, c. 367, § 27, emerg. eff. June 6, 2000; Laws 2005, c. 135, § 10, eff. Nov. 1, 2005.

§2-3-123. Retention of Africanized honeybees prohibited - Exception.

A. It shall be illegal to retain Africanized honeybees except for specifically approved research purposes as determined by rules promulgated by the State Board of Agriculture.

B. All abandoned apiaries observed or captured in counties where Africanized honeybees have been detected shall be destroyed.

C. If a feral colony of Africanized honeybees is found in the state, the Oklahoma Department of Agriculture, Food, and Forestry shall take immediate actions to protect the public safety and welfare. The Department may confiscate or destroy the feral Africanized honeybee colony.

Added by Laws 2005, c. 135, § 11, eff. Nov. 1, 2005.

§2-3-124. Certified Beekeeper Program - European Honeybee Certification Program.

A. The State Board of Agriculture may promulgate rules to establish a Certified Beekeeper Program.

B. The Board may promulgate rules to establish and administer a voluntary European Honeybee Certification Program.

Added by Laws 2005, c. 135, § 12, eff. Nov. 1, 2005.

§2-3-125. Local laws on honeybee hives not authorized - Apiary zoning exception.

No county, municipal corporation, consolidated government, or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation, or resolution prohibiting, impeding, or restricting the establishment or maintenance of honeybees in hives. This provision shall not be construed to restrict the zoning authority of a county or municipal government to establish appropriate locations for apiaries.

Added by Laws 2005, c. 135, § 13, eff. Nov. 1, 2005.

§2-3-130. Tick eradication program - Funding.

The Oklahoma Department of Agriculture, Food, and Forestry shall establish and maintain by November 1, 2006, a tick eradication program. Funding for this program shall be appropriated to the Department as directed by the Legislature.

Added by Laws 2006, c. 211, § 21, eff. Nov. 1, 2006.

§2-3-141. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-142. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-143. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-144. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-171. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-201. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-202. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-203. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-204. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-205. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-206. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-207. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-208. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-209. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-210. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-211. Weed Free Hay Certification Act.

This act shall be known and may be cited as the "Weed Free Hay Certification Act".

Added by Laws 2009, c. 44, § 1, eff. Nov. 1, 2009.

§2-3-212. Definitions.

As used in the Weed Free Hay Certification Act, unless otherwise stated:

1. "Hay" means any agricultural forage crop product whether cultivated or not cultivated, irrigated or nonirrigated, planted or naturally occurring;

2. "Noxious weeds" means those weeds, including any weed seed or propagative plant parts, designated by the State Board of Agriculture as noxious and are prohibited, and shall include those noxious weeds identified in Section 3-220 of Title 2 of the Oklahoma Statutes;

3. "Qualified inspector" means a person qualified to identify noxious weeds pursuant to standards promulgated by the Board;

4. "Weed free" means any hay certified as free of noxious weeds; and

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

Added by Laws 2009, c. 44, § 2, eff. Nov. 1, 2009.

§2-3-213. Promulgation of rules.

The State Board of Agriculture shall promulgate rules to carry out the provisions of the Weed Free Hay Certification Act in accordance with the Administrative Procedures Act and shall include, but not be limited to, rules concerning:

1. Weeds designated as noxious are prohibited;

2. Procedures for certification of weed-free crops;

3. Qualification standards for persons seeking designation as qualified inspectors;

4. Crop inspection procedures;

5. Treatment procedures for the eradication of viable noxious weeds from crops;

6. Procedures for identifying and tracking certified weed-free crops; and

7. Reasonable fees for obtaining certification.

Added by Laws 2009, c. 44, § 3, eff. Nov. 1, 2009.

§2-3-214. Inspector training cooperative agreements - Federal funding.

A. The Commissioner of Agriculture may enter into cooperative agreements with Oklahoma State University for the purpose of training qualified inspectors in the identification of those plants designated as noxious weeds by the State Board of Agriculture.

B. For purposes of carrying out the provisions of the Weed Free Hay Certification Act, the Board may accept funds from any agency of

the federal government and may cooperate and enter into agreements with any federal agency, any agency of another state, and any agency of this state or its political subdivisions.

Added by Laws 2009, c. 44, § 4, eff. Nov. 1, 2009.

§2-3-215. Weed-free certification - Inspection.

A. Any crop for which weed-free certification is sought shall be inspected in the field of origin and the inspection shall include an inspection of any ditches, fence rows, roads, easements, rights-of-way, and buffer zones, as applicable, surrounding the field of origin.

B. Crops containing any weeds designated as noxious may be certified if certain conditions established in rules by the State Board of Agriculture are met.

Added by Laws 2009, c. 44, § 5, eff. Nov. 1, 2009.

§2-3-220. Noxious weeds - Eradication.

A. 1. The plants musk thistle (*Carduus nutans* L.), Scotch thistle (*Onoprodum acanthium* L.), and Canada thistle (*Cirsium arvense*) are designated as noxious weeds. The Legislature finds that these thistles are a public nuisance in all counties across this state.

2. It shall be the duty of every landowner in each county to treat, control, or eradicate all Canada, musk, or Scotch thistles growing on the landowner's land every year as shall be sufficient to prevent these thistles from going to seed.

3. The Department of Transportation, the boards of county commissioners, and any other public, private, or corporate entity who shall maintain rights-of-way in the State of Oklahoma shall be responsible for removing any thistle infestation that occurs within their jurisdiction.

4. Failure of the landowner to treat, eradicate, or control all musk, Canada, or Scotch thistle may result in a fine not to exceed One Thousand Dollars (\$1,000.00) for each violation per day.

5. Upon written complaint, the State Department of Agriculture shall inspect the type of thistle infestation, assess the nature and extent of the thistle infestation on the property of the landowner and determine the most appropriate thistle treatment, control, or eradication method available for the type of thistle and location of the property.

B. The Board shall:

1. Promulgate rules setting categories or degrees of infestation which would require specified treatment, control, or eradication;

2. Include musk, Scotch, and Canada thistles as prohibited noxious weed and weed seed pursuant to the Department's authority and responsibility under Article 8 of the Oklahoma Agricultural Code;

3. By November 1, 2000, and annually thereafter prior to the growing season of musk, Scotch, and Canada thistles, complete an annual survey detailing the degree of infestation of these thistles across the state. The results of these surveys shall be reported to Oklahoma State University; and

4. In all counties of this state, provide information to newspapers of general circulation stating that musk, Scotch, and Canada thistles are a public nuisance and that it is the duty of every public, private, or corporate landowner to treat, control, or eradicate these thistles growing on any property owned by the landowner. The information shall be provided at the beginning of the cycle of growth of the musk, Scotch, and Canada thistles and at other times as necessary to inform landowners of the provisions of this subsection. The information material shall also include:

- a. information detailing the process by which an interested landowner may receive assistance pursuant to this subsection for the removal of thistles from infested property,
- b. the telephone number of the Department, and
- c. a statement informing the landowner that failure to remove musk, Scotch, and Canada thistles may subject the landowner to legal action requiring the treatment, control, or eradication of these thistles.

C. Upon request of the landowner or the Department, the designated Oklahoma State University extension agent for a particular county shall evaluate or, if there is no extension agent for a particular county, the Department shall inspect the type of thistle infestation, assess the nature and extent of the thistle infestation on the property of the landowner, and determine the most appropriate thistle treatment, control, or eradication method available for the type of thistle and location of the property.

Added by Laws 1994, c. 204, § 1, eff. Sept. 1, 1994. Amended by Laws 1995, c. 49, § 1, eff. Nov. 1, 1995; Laws 1998, c. 294, § 1, eff. Nov. 1, 1998; Laws 1999, c. 239, § 1, emerg. eff. May 27, 1999; Laws 2000, c. 11, § 1, eff. Oct. 1, 2000; Laws 2000, c. 367, § 28, emerg. eff. June 6, 2000.

§2-3-251. Repealed by Laws 1990, c. 112, § 1, emerg. eff. April 23, 1990.

§2-3-252. Repealed by Laws 1990, c. 112, § 1, emerg. eff. April 23, 1990.

§2-3-253. Repealed by Laws 1990, c. 112, § 1, emerg. eff. April 23, 1990.

§2-3-254. Repealed by Laws 1990, c. 112, § 1, emerg. eff. April 23, 1990.

§2-3-255. Repealed by Laws 1990, c. 112, § 1, emerg. eff. April 23, 1990.

§2-3-256. Repealed by Laws 1990, c. 112, § 1, emerg. eff. April 23, 1990.

§2-3-257. Repealed by Laws 1990, c. 112, § 1, emerg. eff. April 23, 1990.

§2-3-258. Repealed by Laws 1990, c. 112, § 1, emerg. eff. April 23, 1990.

§2-3-259. Repealed by Laws 1990, c. 112, § 1, emerg. eff. April 23, 1990.

§2-3-271. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-272. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-273. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-274. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-275. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-276. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-277. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-278. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-3-301. Repealed by Laws 1990, c. 112, § 2, emerg. eff. April 23, 1990.

§2-3-302. Repealed by Laws 1990, c. 112, § 2, emerg. eff. April 23, 1990.

§2-3-303. Repealed by Laws 1990, c. 112, § 2, emerg. eff. April 23, 1990.

§2-3-304. Repealed by Laws 1990, c. 112, § 2, emerg. eff. April 23, 1990.

§2-3-305. Repealed by Laws 1990, c. 112, § 2, emerg. eff. April 23, 1990.

§2-3-306. Repealed by Laws 1990, c. 112, § 2, emerg. eff. April 23, 1990.

§2-3-307. Repealed by Laws 1990, c. 112, § 2, emerg. eff. April 23, 1990.

§2-3-308. Repealed by Laws 1990, c. 112, § 2, emerg. eff. April 23, 1990.

§2-3-309. Repealed by Laws 1990, c. 112, § 2, emerg. eff. April 23, 1990.

§2-3-310. Castor bean production - Ricin.

A. It shall be unlawful for any person to plant, nurture or otherwise commercially produce castor beans containing the toxin ricin in this state.

B. Any person violating the provisions of this section shall, upon conviction, be deemed guilty of a misdemeanor and may be punished by a fine not exceeding Five Hundred Dollars (\$500.00).

C. Provisions of this section shall be enforced by the Oklahoma Department of Agriculture, Food, and Forestry.

Added by Laws 2012, c. 5, § 1, emerg. eff. April 2, 2012.

§2-3-311. Castor bean transportation - Ricin.

A. It shall be unlawful to transport castor beans in quantities of more than fifty (50) pounds containing the toxin ricin within this state.

B. Any person violating the provisions of this section shall, upon conviction, be deemed guilty of a misdemeanor and may be punished by a fine not exceeding Five Hundred Dollars (\$500.00).

C. Provisions of this section shall be enforced by the Oklahoma Department of Agriculture, Food, and Forestry.

Added by Laws 2012, c. 4, § 1, emerg. eff. April 2, 2012.

§2-3-401. Short title - Oklahoma Industrial Hemp Program.

This act shall be known and may be cited as the "Oklahoma Industrial Hemp Program".

Added by Laws 2018, c. 64, § 1, emerg. eff. April 23, 2018. Amended by Laws 2019, c. 91, § 2, emerg. eff. April 18, 2019.

§2-3-402. Definitions.

As used in the Oklahoma Industrial Hemp Program:

1. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry;
 2. "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 and also 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;
 3. "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 delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry-weight basis;
 4. "Licensee" means a person who holds a valid Industrial Hemp License to grow industrial hemp under the Oklahoma Industrial Hemp Program;
 5. "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; and
 6. "Processing" means converting industrial hemp into a marketable form, including the production of all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers.
- Added by Laws 2018, c. 64, § 2, emerg. eff. April 23, 2018. Amended by Laws 2019, c. 91, § 3, emerg. eff. April 18, 2019.

§2-3-403. Licensee authorization - Exemption from criminal liability.

A. A licensee is authorized to:

1. Engage in the growth and cultivation of industrial hemp for agricultural plant research purposes; and
2. Upon approval by the United States Department of Agriculture of the Oklahoma Industrial Hemp Program, engage in the growth, cultivation, handling or processing of industrial hemp.

B. The activities performed under the Oklahoma Industrial Hemp Program shall not subject the persons participating in the program to criminal liability under the Uniform Controlled Dangerous Substances Act. The exemption from criminal liability provided for in this subsection is a limited exemption that shall be strictly construed and shall not apply to an activity that is not expressly permitted under the Oklahoma Industrial Hemp Program.

Added by Laws 2018, c. 64, § 3, emerg. eff. April 23, 2018. Amended by Laws 2019, c. 91, § 4, emerg. eff. April 18, 2019; Laws 2019, c. 478, § 1, emerg. eff. May 28, 2019.

§2-3-404. License application - Rules and requirements.

A. A person intending to engage in industrial hemp growth, cultivation, handling or processing authorized under the Oklahoma Industrial Hemp Program shall apply to the Oklahoma Department of Agriculture, Food, and Forestry for a license prior to planting, handling or processing the industrial hemp.

1. The application shall include:

- a. the name and address of the applicant,
- b. the legal description, global positioning system location, and map of the land area on which the applicant will engage in industrial hemp growth and cultivation operations, handling operations or processing operations, and
- c. a statement of intended end use.

2. By submitting an application, the applicant acknowledges and agrees that:

- a. information provided to the Department may be provided to law enforcement agencies,
- b. the applicant shall allow and fully cooperate with any inspection and sampling that the Department deems necessary,
- c. the applicant will submit all required reports by the applicable due dates specified by the Department, and
- d. the applicant has the legal right to cultivate, handle or process industrial hemp on the registered land area and shall grant the Department access for inspection and sampling.

B. The Department shall collect a nonrefundable fee from the applicant at the time of application. The Department shall set a fee schedule based on the size and use of the land area on which the licensee will conduct industrial hemp growing or cultivation operations and shall set the fee at a level sufficient to generate the amount of monies necessary to cover the Department's direct costs in implementing the Oklahoma Industrial Hemp Program. Denied applications for a license may be resubmitted within a twelve-month period. The Department may waive the fee for resubmitted applications.

C. A license issued pursuant to this section is valid for one (1) year. In order to continue engaging in industrial hemp growth and cultivation operations in Oklahoma, the licensee shall annually apply for a license in accordance with subsection A of this section. The Department may set a separate fee schedule for renewal of existing licenses in good standing.

D. All industrial hemp plant material shall be planted, grown and harvested under a valid license. Any plant material that is not harvested in the license period in which it was planted or volunteer plants that are not destroyed must be declared for inclusion in a subsequent license.

E. If the licensee wishes to alter the land area on which the licensee will conduct industrial hemp growth, cultivation, handling or processing operations within thirty (30) days of any new license, before altering the area, the licensee shall submit to the Department an updated legal description, global positioning system location, and map specifying the proposed alterations.

F. Each licensee shall report any changes to information provided in the license application within ten (10) days of such change to the Department.

G. A licensee shall maintain all records pertaining to the license and growing records for a minimum of three (3) years.

H. The Department shall promulgate rules necessary to implement the licensing program and to implement the Oklahoma Industrial Hemp Program.

I. The Department shall promulgate rules to facilitate transportation of industrial hemp.

Added by Laws 2018, c. 64, § 4, emerg. eff. April 23, 2018. Amended by Laws 2019, c. 91, § 5, emerg. eff. April 18, 2019.

§2-3-405. Repealed by Laws 2019, c. 91, § 13, emerg. eff. April 18, 2019.

§2-3-406. Harvest report.

A. At least thirty (30) days prior to harvest, each licensee shall file a harvest report on a form approved by the Department that includes:

1. A statement of intended disposition of its industrial hemp crop; and
2. The harvest date or dates, location and yield of each variety cultivated within a registered land area.

B. A licensee shall notify the Department immediately of any changes in a reported harvest date by more than five (5) days.

Added by Laws 2018, c. 64, § 6, emerg. eff. April 23, 2018. Amended by Laws 2019, c. 91, § 6, emerg. eff. April 18, 2019.

§2-3-407. Inspection and sampling.

A. Any plants of the licensee are subject to at least annual routine inspections and sampling to verify that the plant meets the definition of industrial hemp. The Department shall notify each licensee of the scope of the inspection and the process by which the inspection will be conducted. The Department shall promulgate rules regarding the procedures of inspection and sampling.

B. The Department may inspect and take samples from any licensee's plants during normal business hours.

C. Licenses for handling or processing shall be subject to at least annual inspections in addition to compliance inspections.

D. The Department shall make a good-faith attempt to have the licensee present at the time of inspection and sampling. The licensee or authorized representative shall provide the Department's inspector with complete and unrestricted access to all plants, parts and seeds, whether growing or harvested, and all land, buildings and other structures used for the growth, cultivation, harvesting, storage, handling or processing of industrial hemp, and all documents and records pertaining to the licensee's industrial hemp-growing, cultivation operation, handling and processing.

E. The licensee shall pay for any inspection and laboratory analysis costs that the Department deems necessary within thirty (30) days of the date of the receipt of an invoice for the costs. The Department shall waive all inspection or sampling costs if no inconsistencies or violations are identified during an inspection that is not part of the regular annual inspection process.

F. The Department shall promulgate rules to establish a process by which a licensee may contest the procedures, protocols and results or findings of the inspection.

Added by Laws 2018, c. 64, § 7, emerg. eff. April 23, 2018. Amended by Laws 2019, c. 91, § 7, emerg. eff. April 18, 2019.

§2-3-408. Causes to deny, revoke or suspend a license.

A. The Department may deny, revoke or suspend a license if the licensee:

1. Violates any provision of the Oklahoma Industrial Hemp Program or rules adopted pursuant to the program;

2. Engages in fraud or deception in the procurement of or attempt to procure a license under this Oklahoma Industrial Hemp Program or provides false information on a license application;

3. Refuses or fails to cooperate and assist the Department with the inspection process;

4. Refuses or fails to provide any information required or requested by the Department for purposes of the Oklahoma Industrial Hemp Program;

5. Knowingly provides false, misleading or incorrect information pertaining to the licensee's cultivation, handling or processing of industrial hemp to the Department by any means, including information provided in any application form, report, record or inspection required or maintained for purposes of the Oklahoma Industrial Hemp Program;

6. Fails to submit any report required by the Oklahoma Industrial Hemp Program; or

7. Fails to pay fees required by the Oklahoma Industrial Hemp Program.

B. 1. A licensee that negligently violates the provisions of the Oklahoma Industrial Hemp Program shall not be subject to a criminal enforcement action.

2. A licensee that negligently violates the provisions of the Oklahoma Industrial Hemp Program three times in any five-year period shall be ineligible to obtain a license pursuant to the Oklahoma Industrial Hemp Program for a period of five (5) years beginning on the date of the third violation.

C. Any person convicted of a felony relating to a controlled substance under state or federal law shall be ineligible during the ten-year period following the date of conviction to participate in this program.

Added by Laws 2018, c. 64, § 8, emerg. eff. April 23, 2018. Amended by Laws 2019, c. 91, § 8, emerg. eff. April 18, 2019; Laws 2019, c. 478, § 2, emerg. eff. May 28, 2019.

§2-3-409. Repealed by Laws 2019, c. 91, § 13, emerg. eff. April 18, 2019.

§2-3-410. Oklahoma Industrial Hemp Program Fund.

There is hereby created in the State Treasury a revolving fund for the State Board of Agriculture to be designated the "Oklahoma Industrial Hemp Program Fund". The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all monies received by the State Board of Agriculture from fees received and collected pursuant to the Oklahoma Industrial Hemp Program, donations, grants, contributions and gifts from any public or private source. The Board may expend funds for the purposes set forth in the Oklahoma Industrial Hemp Program. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2018, c. 64, § 10, emerg. eff. April 23, 2018. Amended by Laws 2019, c. 91, § 9, emerg. eff. April 18, 2019.

§2-3-411. Cannabidiol sourcing.

Cannabidiol shall not be processed in the State of Oklahoma from any sources which would be in violation of the United States Code or the Code of Federal Regulations.

Added by Laws 2019, c. 91, § 11, emerg. eff. April 18, 2019.

§2-4-1. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-4-2. Definitions.

For the purposes of this article:

1. "Animal" or "livestock" means any cattle, horse, or mule;
2. "Brand" means a permanent identification mark of which the letters, numbers, and figures used are each three (3) inches or more in length or diameter and are impressed into the hide of a live animal either with a hot iron or by the process commonly referred to as "cold" or "freeze" branding, and includes the location on the animal. The term means both the mark and location;
3. "Organization" means a statewide livestock organization; and
4. "Statewide livestock organization" means an organization headquartered in the State of Oklahoma that represents the majority of livestock producers in Oklahoma.

Added by Laws 1955, p. 31, art. 4, § 2, emerg. eff. June 3, 1955.

Amended by Laws 1965, c. 199, § 1; Laws 1968, c. 10, § 1, emerg. eff. Feb. 6, 1968; Laws 2000, c. 243, § 27, emerg. eff. May 24, 2000; Laws 2017, c. 167, § 1, eff. Nov. 1, 2017.

§2-4-3. Approval of brands - Certificates - Conflicts - Brand book.

The State Board of Agriculture may designate a statewide livestock organization to approve brands for registration, issue certificates, and serve as an adjudicating committee in resolving conflicts. The organization shall publish a State Brand Book which shall contain a facsimile of each registered brand with the owner's name and address. In the event the Board determines that the statewide livestock organization fails to perform the duties designated in the brand law or is no longer representative of the majority of livestock producers in Oklahoma, the Board shall designate a new statewide livestock organization or shall perform the duties associated with the brand law, including maintenance of the State Brand Book, receipt of fees for application processing and other duties.

Added by Laws 1955, p. 31, art. 4, § 3, emerg. eff. June 3, 1955.

Amended by Laws 2000, c. 243, § 28, emerg. eff. May 24, 2000; Laws 2017, c. 167, § 2, eff. Nov. 1, 2017.

§2-4-4. Custodian of county brand books - Certified copies - Fees.

The statewide livestock organization shall be the legal custodian of county brand record books which were maintained under prior laws. Upon request, the organization shall provide a certified copy of the record of any brand appearing in the county brand record books. The organization may charge a reasonable fee for each brand.

Added by Laws 1955, p. 31, art. 4, § 4, emerg. eff. June 3, 1955.

Amended by Laws 2000, c. 243, § 29, emerg. eff. May 24, 2000; Laws 2017, c. 167, § 3, eff. Nov. 1, 2017.

§2-4-5. Application for registration - Fees - Contents.

- A. Any application for the registration of a brand shall be:

1. On a form prepared by the statewide livestock organization; and

2. Accompanied by a reasonable fee set by the organization for each brand.

B. The application for the registration of a brand shall show the brand location to the following body regions of animals: right or left shoulder, neck, rib, or hind quarter. Previously registered brands are not affected.

C. The applicant shall list at least three distinct brands and three locations in the preferred order.

Added by Laws 1955, p. 31, art. 4, § 5, emerg. eff. June 3, 1955.

Amended by Laws 1965, c. 476, § 1; Laws 1977, c. 28, § 1; Laws 1984, c. 15, § 16, eff. Jan. 1, 1985; Laws 1994, c. 117, § 1; Laws 2000, c. 243, § 30, emerg. eff. May 24, 2000; Laws 2017, c. 167, § 4, eff. Nov. 1, 2017.

§2-4-6. Use of unregistered brands - Duplication.

A. It shall be unlawful for any person to knowingly place upon any livestock a brand which has not been registered with the statewide livestock organization if the brand duplicates one that is registered.

B. For purposes of this section, "duplication" means the use of a similar brand in any location on the animal designated for a registered brand.

Added by Laws 1955, p. 31, art. 4, § 6, emerg. eff. June 3, 1955.

Amended by Laws 2000, c. 243, § 31, emerg. eff. May 24, 2000; Laws 2017, c. 167, § 5, eff. Nov. 1, 2017.

§2-4-7. Publication of revised book - Reregistration - Fees - Copies to officials.

A. The statewide livestock organization shall publish a revised State Brand Book at least every five (5) years. Supplements may be published as necessary.

B. Prior to publication of a revised State Brand Book all registered brand owners and assignees shall be notified in writing that the brand registrations are being terminated.

C. The organization shall set a reasonable renewal fee for the registration of each brand for the ensuing five-year period or fraction thereof.

D. The State Brand Book and supplements shall be available to the public at a price commensurate with the cost of preparation, printing, and delivery thereof. Upon written request the organization shall provide without charge all brand books and supplements to the county clerk and sheriff of each county, any inspection agency, any livestock association, or any entity approved by the organization.

Added by Laws 1955, p. 31, art. 4, § 7, emerg. eff. June 3, 1955.
Amended by Laws 1965, c. 475, § 1; Laws 1977, c. 28, § 2; Laws 1989, c. 40, § 1, operative July 1, 1989; Laws 1994, c. 117, § 2; Laws 2000, c. 243, § 32, emerg. eff. May 24, 2000; Laws 2017, c. 167, § 6, eff. Nov. 1, 2017.

§2-4-8. Brands in current edition as prima facie evidence of ownership.

Brands in the current edition of the State Brand Book and supplements shall be prima facie evidence of ownership. An owner whose brand does not appear in the State Brand Book or a supplement shall produce evidence to establish title to the property in the event of controversy.

Added by Laws 1955, p. 32, art. 4, § 8. Amended by Laws 2000, c. 243, § 33, emerg. eff. May 24, 2000.

§2-4-9. Questionable ownership of animals at markets - Withholding of funds pending determination.

A. Any peace officer of the state or any livestock association in the State of Oklahoma qualifying under federal law to perform brand inspection services at specified markets shall have the authority to order funds of an animal of questionable ownership held until ownership is established.

B. If ownership is not established within thirty (30) days, the funds shall be provided to the State Board of Agriculture and held for one (1) year. If the ownership to the animal cannot be ascertained, the funds shall be deposited in the State Department of Agriculture Revolving Fund.

Added by Laws 1955, p. 32, art. 4, § 9. Amended by Laws 2000, c. 243, § 34, emerg. eff. May 24, 2000.

§2-4-10. Brands reserved to state.

The state reserves the brands of "B", "T", "PI+" and "A" on the tailhead of cattle. It shall be unlawful for any person other than authorized agents of the State Board of Agriculture to use any of such brands. The Board may reserve additional brands and promulgate rules identifying the reserved brand.

Added by Laws 1955, p. 32, art. 4, § 10, emerg. eff. June 3, 1955.
Amended by Laws 1965, c. 450, § 1; Laws 1996, c. 138, § 2, emerg. eff. May 1, 1996; Laws 2000, c. 243, § 35, emerg. eff. May 24, 2000; Laws 2017, c. 167, § 7, eff. Nov. 1, 2017.

§2-4-11. Brands in current edition subject to sale, transfer, etc. - Recording - Fees.

Only brands appearing in the current edition of the State Brand Book or supplement thereto shall be subject to sale, assignment, transfer, devise, or bequest. The transfer of title shall be

recorded with the statewide livestock organization. A reasonable fee for recording the transfer of title shall be set by the organization. Added by Laws 1955, p. 32, art. 4, § 11, emerg. eff. June 3, 1955. Amended by Laws 1994, c. 117, § 3; Laws 2000, c. 243, § 36, emerg. eff. May 24, 2000; Laws 2017, c. 167, § 8, eff. Nov. 1, 2017.

§2-4-12. Sale of branded livestock - Written transfer of ownership.

All persons selling livestock with a registered brand shall upon request provide a written transfer of ownership to the purchaser. Added by Laws 1955, p. 32, art. 4, § 12. Amended by Laws 2000, c. 243, § 37, emerg. eff. May 24, 2000.

§2-4-13. "Dog Iron" brand.

The brand known as the "Dog Iron" brand, as shown and listed on page 107 at line 23 of the 1950 Oklahoma Brand Book, and which brand was used during his lifetime by the late Will Rogers of Oologah and Claremore, Oklahoma, shall be reserved to the State of Oklahoma for historical purposes. It shall be unlawful for any person to use the brand for the branding or marketing of animals, provided that the statewide livestock organization may register the brand in the name of any blood relative or descendant of Will Rogers, so the brand may be perpetuated and preserved for historical purposes and in honor of the memory of Will Rogers.

Added by Laws 1955, p. 32, art. 4, § 13, emerg. eff. June 3, 1955. Amended by Laws 2000, c. 243, § 38, emerg. eff. May 24, 2000; Laws 2017, c. 167, § 9, eff. Nov. 1, 2017.

§2-4-14. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-4-20. Animal Identification Program.

A. The Oklahoma Department of Agriculture, Food, and Forestry shall be the official animal identification agency of the state and shall be the official agency of the state in any dealings between this state and the United States Department of Agriculture, any other federal agency, or any agency or person of this or another state on matters pertaining to animal identification.

B. It is the intent of the Oklahoma State Legislature to direct and authorize the Oklahoma Department of Agriculture, Food, and Forestry to develop, implement, and administer an Oklahoma Animal Identification Program that achieves the following goals:

1. Enhance disease preparedness by rapidly identifying animals exposed to disease, thus allowing quick detection, containment, and elimination of disease threats;

2. Promote continued confidence in animal products and to protect the health status of Oklahoma's herds and flocks;

3. Identify infected and exposed premises, animals, and groups of animals;

4. Develop a comprehensive infrastructure that utilizes state-of-the-art national and international standards with the best available and practical technologies for the collection and recording of livestock and food animal movements; and

5. Be dynamic and flexible, and incorporate new and proven technologies as they become available.

C. The Department shall be authorized to promulgate rules for the implementation and administration of the Oklahoma Animal Identification Program, if one of the following occurs:

1. The United States Department of Agriculture issues proposed or final rules or requirements for the implementation of a national animal identification or premises registration program;

2. The United States Congress enacts requirements for a national animal identification or premises registration system; or

3. Another state establishes requirements for animal identification or premises registration affecting the importation of livestock from Oklahoma.

D. Any rules promulgated by the Department pursuant to this section that may be reasonably necessary to implement the Oklahoma Animal Identification Program may include the following:

1. Premises identification;

2. Individual animal identification;

3. Group and lot animal identification;

4. Specifications and standards for the identification technologies used to track and trace animal movements;

5. Record keeping; and

6. Protecting and improving the health of Oklahoma livestock and food animals.

E. The Department may charge fees; however, the fees shall be limited to the actual costs of the Department for the implementation and administration of the Oklahoma Animal Identification Program.

F. Pursuant to this section and rules promulgated pursuant thereto, any data or records provided to the Department by persons regarding premises or animal identification, including the name and address of the provider, shall be kept confidential except in the following circumstances:

1. Federal law requires the information for a National Animal Identification program;

2. The Department deems release of confidential information to other state and federal agencies is necessary for disease control and disease traceback;

3. The information is needed to assist law enforcement officials in livestock recovery and theft investigations; and

4. The Department may release information as needed to assist in criminal investigations or tracebacks concerning violations of state or federal pharmacy acts and drug residues.

G. In the event that information regarding premises or animal identification is provided to other individuals or entities, the information shall be specific and not cumulative.

H. A court shall quash any subpoena commanding the disclosure of confidential information or records of the Department.

Added by Laws 2004, c. 544, § 1, eff. July 1, 2004.

§2-5-1. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-5-1.1. Agribusiness assistance and services to farmers, ranchers and other agricultural-related parties.

The State Department of Agriculture is authorized, on behalf of farmers, ranchers, and other agricultural-related parties to assist, promote, or provide services in agribusiness-related areas, rural community development, and other public service entities as funds are made available and approved by the State Board of Agriculture.

Added by Laws 1987, c. 208, § 7, operative July 1, 1987. Amended by Laws 1987, c. 236, § 49, emerg. eff. July 20, 1987; Laws 1988, c. 309, § 8, operative July 1, 1988; Laws 2001, c. 146, § 78, emerg. eff. April 30, 2001. Renumbered from § 1603 of this title by Laws 2001, c. 146, § 254, emerg. eff. April 30, 2001.

§2-5-2. Program of marketing services.

For the purpose of aiding and improving the marketing of agricultural products of the State of Oklahoma, the State Board of Agriculture shall implement a program of marketing services. The program shall include improvement of marketing methods, development of greater and more efficient utilization of agricultural products, and dissemination of marketing information. The Board shall perform any other services that will facilitate the improvement, transportation, marketing, distributing, processing, or utilization of agricultural products of the State of Oklahoma through commercial channels.

Added by Laws 1955, p. 33, art. 5(A), § 2. Amended by Laws 2000, c. 243, § 39, emerg. eff. May 24, 2000.

§2-5-2.1. Market reports.

The State Board of Agriculture may obtain and compile price reports and other information on a daily or other basis for the natural products of the farm, orchard, vineyard, garden, and apiary, raw and manufactured, and livestock, poultry, and dairy products. The Board may disseminate the reports and information to press associations, radio and television stations, and all media of

communication so farmers and producers may be provided information about the exact market conditions existing in this state and in the several markets of the country. The Board shall cooperate with agricultural agencies, federal and state, to devise the methods which will best carry forward the dissemination of the reports and information.

Added by Laws 1955, p. 92, art. 9(E), § 1. Amended by Laws 2000, c. 243, § 110, emerg. eff. May 24, 2000. Renumbered from § 9-151 of this title by Laws 2001, c. 146, § 265, emerg. eff. April 30, 2001.

§2-5-3. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-5-3.1. Short title - Oklahoma Agriculture Enhancement and Diversification Program.

A. The provisions of this act shall be known and may be cited as the "Oklahoma Agriculture Enhancement and Diversification Act".

B. Pursuant to the Oklahoma Agriculture Enhancement and Diversification Act, there is hereby created the "Oklahoma Agriculture Enhancement and Diversification Program".

Added by Laws 1999, c. 157, § 1, eff. Nov. 1, 1999.

§2-5-3.2. Purpose and categories of Oklahoma Agriculture Enhancement and Diversification Program.

A. The State Board of Agriculture is hereby authorized to establish and administer the Oklahoma Agriculture Enhancement and Diversification Program.

B. The purpose of the Oklahoma Agriculture Enhancement and Diversification Program is to promote and encourage the interests of agriculture through the allocation of funds, by grant or loan, to individuals, cooperatives and other agricultural entities to:

1. Develop new or expanded uses of agricultural products;
2. Develop new or expanded benefits of agricultural events;
3. Increase agricultural productivity;
4. Provide added value to agricultural products or events;
5. Benefit the agricultural producer; and
6. Benefit the agricultural interests of Oklahoma.

C. The Program shall consist of the following categories:

1. Cooperative marketing grants and loans for entities or individuals intending to work together to develop or establish production, processing or marketing of agricultural products. The purpose of this category is to provide funding for promoting productivity, providing added value to agricultural products, stimulating and fostering agricultural diversification and encouraging processing innovations;

2. Marketing and utilization grants and loans to assist in the development or implementation of sound domestic or foreign marketing

plans for Oklahoma agricultural products, by-products, or new and better uses for existing agricultural products through the financing of marketing feasibility studies, business plans, and test marketing;

3. Farm diversification grants or loans for projects dealing with the diversification of family farms or ranches to nontraditional crops, livestock, or on-farm, value-added processing of agricultural commodities;

4. Basic and applied research grants and loans for business creation or expansion, or research which will likely lead to a marketable product through the focusing of research efforts on uses and processing of Oklahoma agricultural products and by-products, including but not limited to:

- a. focused research which enhances the value of an agricultural product or by-product,
- b. feasibility studies,
- c. product development costs, and
- d. projects that are driven by an entrepreneur or the industry; and

5. Agricultural event grants or loans for expansion or creation of events that benefit and further the public interest in agriculture.

D. The State Board of Agriculture shall promulgate rules governing the Oklahoma Agriculture Enhancement and Diversification Program.

Added by Laws 1999, c. 157, § 2, eff. Nov. 1, 1999. Amended by Laws 2013, c. 118, § 2, eff. Nov. 1, 2013; Laws 2015, c. 123, § 1, emerg. eff. April 21, 2015.

§2-5-3.3. Oklahoma Agriculture Enhancement and Diversification Fund - Monies received and deposited - Appropriation and expenditure.

A. There is hereby created within the State Treasury a fund for the State Board of Agriculture to be designated the "Oklahoma Agriculture Enhancement and Diversification Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Board of Agriculture to implement and maintain the Oklahoma Agriculture Enhancement and Diversification Program.

B. The Oklahoma Agriculture Enhancement and Diversification Fund shall consist of:

1. Money received by the Oklahoma Department of Agriculture, Food, and Forestry in the form of gifts, grants, appropriations, reimbursements, donations, industry contributions, funds allocated by federal agencies for marketing, research and agricultural development programs and such other monies specifically designated for the Oklahoma Agriculture Enhancement and Diversification Program. All monies accruing to the credit of the fund are hereby appropriated and

may be budgeted and expended by the State Board of Agriculture for the Oklahoma Agriculture Enhancement and Diversification Program; and

2. Interest attributable to investment of money in the fund.

C. All donations or other proceeds received by the Department pursuant to the provisions of this section shall be deposited with the State Treasurer to be credited to the Oklahoma Agriculture Enhancement and Diversification Fund. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. The monies deposited in the fund shall at no time become part of the general budget of the Department or any other state agency. Except for any administration costs incurred in development and implementation of the Oklahoma Agriculture Enhancement and Diversification Program, no monies from the fund shall be transferred for any purpose to any other state agency or to any account of the State Board of Agriculture or the Department or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

Added by Laws 1999, c. 157, § 3, eff. Nov. 1, 1999. Amended by Laws 2012, c. 304, § 4; Laws 2015, c. 123, § 2, emerg. eff. April 21, 2015.

§2-5-3.4. Grants or loan funds - Applications - Evaluation criteria - Proprietary information.

A. The Oklahoma Department of Agriculture, Food, and Forestry shall require eligible applicants to submit information, forms and reports as are necessary to properly and efficiently administer the Oklahoma Agriculture Enhancement and Diversification Program.

B. Persons may apply to the Department for grant or loan funds in accordance with rules promulgated by the State Board of Agriculture. Applications for grant or loan funds shall be approved or denied by the Department in accordance with criteria promulgated by the Board pursuant to the Oklahoma Agriculture Enhancement and Diversification Program.

C. The State Board of Agriculture may also allocate monies from the fund to eligible applicants on a matching basis.

D. Grant or loan funds may be made available to eligible applicants pursuant to evaluation by the Department based on the following criteria:

1. Preference may be given to the applicants whose:
 - a. industrial and nonfood production processes utilize agricultural products,
 - b. food, feed and fiber products and uses are innovative and add to the value of agricultural products,
 - c. applications demonstrate a high probability of job creation and return-on-investment,

- d. proposals feature research that is innovative as well as commercially plausible,
 - e. proposals demonstrate a high probability of rapid commercialization,
 - f. projects demonstrate a shared commitment for funding from other private or public sources or from the applicant,
 - g. proposals center efforts on nonurban locales,
 - h. principals are individuals, a group of individuals, an individual on behalf of a group, or corporations which meet the criteria set forth in Section 951 of Title 18 of the Oklahoma Statutes, to market a product or formulate or implement a marketing plan for products which have not been marketed through existing marketing cooperatives,
 - i. proposals contain the potential to create additional income for the farm unit,
 - j. proposals provide for new and innovative plans for marketing the product, and
 - k. proposals for agricultural events benefit the entire state or a large geographic region of the state; and
2. Consideration shall not be given to applications for:
- a. research or marketing plans which do not clearly meet the stated objectives of the Oklahoma Agriculture Enhancement and Diversification Act,
 - b. proposals which are aimed solely at business expansion or creation without regard to agricultural products utilization,
 - c. research or marketing plans that cannot reasonably be expected to result in a viable commercial application, or that are or have been duplicated by other research efforts, or
 - d. proposals for agricultural events that do not result in expansion of the event or encourage additional public interest in the event.

E. 1. Any information submitted to or compiled by the Department with respect to the marketing plans, financial statements, trade secrets, research concepts, methods or products, or any other proprietary information of persons, firms, associations, partnerships, agencies, corporations, institutions of higher education, nonprofit research institutions or other entities pursuant to the Oklahoma Agriculture Enhancement and Diversification Program shall not be disclosed in public hearings and shall be kept confidential, except to the extent that the person or entity which provided such information or which is the subject of such information consents to disclosure.

2. Executive sessions may be held to discuss such materials if deemed necessary by the Board.

Added by Laws 1999, c. 157, § 4, eff. Nov. 1, 1999. Amended by Laws 2000, c. 367, § 29, emerg. eff. June 6, 2000; Laws 2015, c. 123, § 3, emerg. eff. April 21, 2015.

§2-5-3.5. Repealed by Laws 2013, c. 118, § 25, eff. Nov. 1, 2013.

§2-5-4. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-5-4.1. Short title - Home Bakery Act of 2013.

This act shall be known and may be cited as the "Home Bakery Act of 2013".

Added by Laws 2013, c. 40, § 1, eff. Nov. 1, 2013. Renumbered from § 1-1440 of Title 63 by Laws 2017, c. 85, § 3, eff. Nov. 1, 2017.

§2-5-4.2. Definitions.

As used in the Home Bakery Act of 2013:

1. "Home food establishment" shall mean a business on the premises of a residence in which prepared food is created for sale or resale at farmers markets, on site, at cooperatives, through membership-based buying clubs or for delivery, if the business has gross annual sales of prepared food of less than Twenty Thousand Dollars (\$20,000.00). Gross annual sales includes all sales of prepared food produced by the business at any location; and

2. "Prepared food" shall mean any baked goods except for products that contain meat products or fresh fruit.

Added by Laws 2013, c. 40, § 2, eff. Nov. 1, 2013. Amended by Laws 2017, c. 85, § 1, eff. Nov. 1, 2017. Renumbered from § 1-1440.1 of Title 63 by Laws 2017, c. 85, § 4, eff. Nov. 1, 2017.

§2-5-4.3. Sales of prepared food - Exemption from licensing and other requirements.

A. A home food establishment may sell prepared food on site, by delivery, at a farmers market, through a cooperative, or through a membership-based buying club. The Oklahoma Department of Agriculture, Food, and Forestry may promulgate rules to allow sales at other locations or by other means.

B. A home food establishment shall be exempt from the licensing and other requirements of the State Department of Health.

C. The Oklahoma Department of Agriculture, Food, and Forestry may, upon a consumer complaint, request written documentation to verify the gross annual sales of a home food establishment.

Added by Laws 2013, c. 40, § 3, eff. Nov. 1, 2013. Amended by Laws 2017, c. 85, § 2, eff. Nov. 1, 2017. Renumbered from § 1-1440.2 of Title 63 by Laws 2017, c. 85, § 5, eff. Nov. 1, 2017.

§2-5-4.4. Labeling requirements.

A home food establishment that sells prepared food shall affix a label that contains the following information:

1. The name and address of the home food establishment;
2. The name of the prepared food; and

3. The following statement printed in at least 10-point type in a color that provides a clear contrast to the background of the label: "Made in a home food establishment that is not licensed by the State Department of Health."

Added by Laws 2013, c. 40, § 4, eff. Nov. 1, 2013. Renumbered from § 1-1440.3 of Title 63 by Laws 2017 c. 85, § 6, eff. Nov. 1, 2017.

§2-5-4.5. Violations.

Violation of Section 4 of the Home Bakery Act of 2013 shall be a misdemeanor and shall be punishable by a fine not exceeding One Hundred Dollars (\$100.00).

Added by Laws 2013, c. 40, § 5, eff. Nov. 1, 2013. Renumbered from § 1-1440.4 of Title 63 by Laws 2017 c. 85, § 6, eff. Nov. 1, 2017.

§2-5-4.6. County ordinances.

Nothing in the Home Bakery Act of 2013 shall be construed to prevent counties from enacting ordinances regulating the operation of home food establishments, provided such ordinances do not conflict with the provisions of the Home Bakery Act of 2013.

Added by Laws 2013, c. 40, § 6, eff. Nov. 1, 2013. Renumbered from § 1-1440.5 of Title 63 by Laws 2017 c. 85, § 6, eff. Nov. 1, 2017.

§2-5-5. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-5-6. Marketing information and news services.

The State Board of Agriculture shall have authority to furnish market information and market news services for agricultural commodities to producers, packers, shippers, wholesalers, retailers, consumers, and other interested parties. In addition, the Board may determine the type of information or services assembled and distributed for any commodity. The information or services may be provided at the shipping, wholesale, or retail level.

Added by Laws 1955, p. 33, art. 5(A), § 6. Amended by Laws 2000, c. 243, § 40, emerg. eff. May 24, 2000.

§2-5-7. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-5-8. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-5-9. "Made in Oklahoma" and "Grown in Oklahoma" program - Specifications.

A. The State Department of Agriculture shall initiate and operate a "Made in Oklahoma" and a "Grown in Oklahoma" program for the purpose of promoting foods, products, and services produced within Oklahoma.

B. The programs shall be designed to:

1. Increase consumer awareness by identifying foods, products, or services with a "Made in Oklahoma" or a "Grown in Oklahoma" logo;
2. Increase purchase of Oklahoma foods, products, and services by Oklahomans and by out-of-state persons;
3. Expand and develop new markets for Oklahoma-made foods, products, and services;
4. Attract needed materials to Oklahoma processors; and
5. Educate consumers about Oklahoma foods, products, and services through an extensive and informative public relations campaign.

Added by Laws 1991, c. 11, § 1, eff. Sept. 1, 1991. Amended by Laws 2000, c. 243, § 13, emerg. eff. May 24, 2000. Renumbered from § 2-11a of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-10. "Made in Oklahoma" and "Grown in Oklahoma" program - Powers and duties of State Department of Agriculture.

A. To implement the Made in Oklahoma Program and the Grown in Oklahoma Program, the State Department of Agriculture shall:

1. Design a "Made in Oklahoma" logo and a "Grown in Oklahoma" logo for use by Oklahoma processors, providers, or growers;
2. Establish standards and requirements for logos;
3. Establish fees for logos; provided any Oklahoma processor, provider, or grower may acquire use of the logos on their foods, products, or services free of charge for the first year after authorization for use;
4. Establish a task force to assist in ascertaining strengths and weaknesses of the program;
5. Cooperate with other state agencies and other organizations as needed in development of the program;
6. Foster conferences, institutes, and exhibits on Oklahoma-made products and services or Oklahoma-grown foods;
7. Publish reports, surveys, news bulletins, or other materials pertaining to its findings, recommendations, and work; and
8. Report to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate areas needing legislative or procedural changes to help promote the purchase and use of Oklahoma-made products and services and Oklahoma-

grown foods or to attract manufacturers to supply processors with needed materials.

B. The Department may apply for, accept, and use any gift, grant, or bequest from any source for the purpose of discharging its duties.

Added by Laws 1991, c. 11, § 2, eff. Sept. 1, 1991. Amended by Laws 2000, c. 243, 14, emerg. eff. May 24, 2000. Renumbered from § 2-11b of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-11. Identification of needs of state entities - Cooperation with producers, Office of Management and Enterprise Services, and State Purchasing Director.

A. As part of the "Made in Oklahoma" and "Grown in Oklahoma" programs established within the Oklahoma Department of Agriculture, Food, and Forestry, the Department, in cooperation with the Office of Management and Enterprise Services and the State Purchasing Director, shall develop and expand new markets and identify the needs of state agencies, institutions, universities, and other entities of state, municipalities, counties, and other political subdivisions of this state and federal agencies and institutions for Oklahoma-made and Oklahoma-grown agricultural products.

B. The Department shall serve as a communication link between the producers of Oklahoma agricultural products and the Office of Management and Enterprise Services and the State Purchasing Director or directly between the producers and the state, local, and federal entities for determining and satisfying the needs of the state, local, and federal entities for agricultural products. Special emphasis shall be given by the program for the development of opportunities for distribution and sale of surplus and oversupply of perishable products.

C. The Department, the Office of Management and Enterprise Services, and the State Purchasing Director shall provide an expeditious process for the sale to and purchase of Oklahoma grown and produced agricultural products by state, local, and federal entities.

D. The Department shall inform producers of the identified needs of agricultural products by the state, local, and federal entities and shall assist the producers in contract procedures with or through the Office of Management and Enterprise Services and the State Purchasing Director or directly with the state, local, or federal entity needing the agricultural products.

Added by Laws 1998, c. 65, § 1, emerg. eff. April 8, 1998. Amended by Laws 2000, c. 243, § 15, emerg. eff. May 24, 2000. Renumbered from § 2-11c of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000. Amended by Laws 2012, c. 304, § 5.

§2-5-12. Oklahoma Agritourism Program.

A. The Oklahoma Department of Agriculture, Food, and Forestry shall operate an "Oklahoma Agritourism Program" for the purpose of stimulating economic growth and viability in rural communities by promoting and fostering agritourism ventures within Oklahoma.

B. The Oklahoma Agritourism Program of the Oklahoma Department of Agriculture, Food, and Forestry shall:

1. Foster conferences, institutes, and exhibits on agritourism opportunities;

2. Publish reports, surveys, news bulletins, or other materials pertaining to its findings, recommendations, and work;

3. Utilize existing Department resources and related programs;

4. Cooperate with the Oklahoma Tourism and Recreation Department, the Oklahoma Department of Commerce and the Oklahoma State University Cooperative Extension Service as needed in development and operation of the Program; and

5. Facilitate an independent agritourism organization.

C. The Department may apply for, accept, and use any gift, grant, or bequest from any source for the purpose of discharging its duties.

Added by Laws 2007, c. 7, § 1, eff. Nov. 1, 2007.

§2-5-13. Agritourism Revolving Fund.

A. There is hereby created in the State Treasury a fund to be known as the "Agritourism Revolving Fund". All monies, fees, and revenues collected, authorized, or received from any source by the State Board of Agriculture or any division, officer, or employee of the State Department of Agriculture pursuant to the provisions of Section 1 of this act or any law or agreement shall be deposited in the fund.

B. The fund shall be a continuing fund and shall be expended only for purposes specifically authorized and approved by a majority vote of the five (5) members appointed to and constituting the Board. The President, in the absence of the Board, may approve disbursements for lawfully authorized purposes.

C. The Board shall have authority to employ and pay out of the fund personnel as needed or required to conduct authorized services.

D. All claims against the fund shall be paid only upon the majority approval of the Board, or the President in the absence of the Board.

Added by Laws 2007, c. 7, § 2, eff. Nov. 1, 2007.

§2-5-14. Short title - Oklahoma Agritourism Activities Liability Limitations Act.

This act shall be known and may be cited as the "Oklahoma Agritourism Activities Liability Limitations Act".

Added by Laws 2013, c. 27, § 1, emerg. eff. April 12, 2013.

§2-5-15. Definitions.

As used in the Oklahoma Agritourism Activities Liability Limitations Act:

1. "Agritourism activity" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity;

2. "Agritourism professional" means any person who is engaged in the business of providing one or more agritourism activities, whether or not for compensation and whose agritourism activity is registered with the Oklahoma Department of Agriculture, Food, and Forestry;

3. "Inherent risks of agritourism activity" means those dangers or conditions that are an integral part of an agritourism activity including certain hazards, surface and subsurface conditions, natural conditions of land, vegetation, and waters, the behavior of wild or domestic animals, and ordinary dangers of structures or equipment ordinarily used in farming and ranching operations. Inherent risks of agritourism activity also include the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity; and

4. "Participant" means any person, other than the agritourism professional, who engages in an agritourism activity.

Added by Laws 2013, c. 27, § 2, emerg. eff. April 12, 2013.

§2-5-16. Liability of agritourism professionals and exceptions.

A. Except as provided in subsection B of this section, an agritourism professional is not liable for injury to or death of a participant resulting from the inherent risks of agritourism activities, so long as the warning contained in Section 4 of this act is posted as required and, except as provided in subsection B of this section, no participant or participant's representative can maintain an action against or recover from an agritourism professional for injury, loss, damage, or death of the participant resulting exclusively from any of the inherent risks of agritourism activities. In any action for damages against an agritourism professional for agritourism activity, the agritourism professional must plead the affirmative defense of assumption of the risk of agritourism activity by the participant.

B. Nothing in subsection A of this section prevents or limits the liability of an agritourism professional if the agritourism professional does any one or more of the following:

1. Commits an act or omission that constitutes negligence or willful or wanton disregard for the safety of the participant, and that act or omission proximately causes injury, damage, or death to the participant;

2. Has actual knowledge or reasonably should have known of a dangerous condition on the land, facilities, or equipment used in the activity or the dangerous propensity of a particular animal used in such activity and does not make the danger known to the participant, and the danger proximately causes injury, damage, or death to the participant.

C. Any limitation on legal liability afforded by this section to an agritourism professional is in addition to any other limitations of legal liability otherwise provided by law.

Added by Laws 2013, c. 27, § 3, emerg. eff. April 12, 2013.

§2-5-17. Notice of warning.

A. Every agritourism professional shall post and maintain signs that contain the warning notice specified in subsection B of this section. The sign shall be placed in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. The warning notice shall consist of a sign in black letters, with each letter to be a minimum of one (1) inch in height. Every written contract entered into by an agritourism professional for the providing of professional services, instruction, or the rental of equipment to a participant, whether or not the contract involves agritourism activities on or off the location or at the site of the agritourism activity, shall contain in clearly readable print the warning notice specified in subsection B of this section.

B. The signs and contracts described in subsection A of this section must contain the following notice of warning:

"WARNING

Under Oklahoma law, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if such injury or death results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death. You are assuming the risk of participating in this agritourism activity."

C. Failure to comply with the requirements concerning warning signs and notices provided in this section shall prevent an agritourism professional from invoking the privileges of immunity provided by the Oklahoma Agritourism Activities Liability Limitations Act.

Added by Laws 2013, c. 27, § 4, emerg. eff. April 12, 2013.

§2-5-18. Short title - Farmers Market Liability Limitation Act.

This act shall be known and may be cited as the "Farmers Market Liability Limitation Act".

Added by Laws 2017, c. 206, § 1, eff. Nov. 1, 2017.

§2-5-19. Definitions.

As used in the Farmers Market Liability Limitation Act:

1. "Farmers market" means a market that is registered with the Oklahoma Department of Agriculture, Food, and Forestry;

2. "Farmers Market Operator" means the person who promotes or manages the activities at a farmers market registered with the Department; and

3. "Participant" means any person who attends a farmers market or who sells, purchases or consumes any products offered or sold at a farmers market.

Added by Laws 2017, c. 206, § 2, eff. Nov. 1, 2017.

§2-5-20. Limitation of liability - Exceptions.

A. Any participant assumes the inherent risk of attending, buying or selling goods at a farmers market registered with the Oklahoma Department of Agriculture, Food, and Forestry. If a participant brings an action for damages arising from the operation of a registered farmers market, the registered farmers market operator may plead an affirmative defense of assumption of risk by the participant.

B. Any limitation on legal liability afforded to a registered farmers market operator by this act shall be in addition to any other limitation of legal liability otherwise provided by law.

C. Nothing in this act shall prevent or limit the liability of a registered farmers market operator if:

1. The registered farmers market operator injures the participant by intentional or willful misconduct; or

2. The registered farmers market operator has actual knowledge of a dangerous condition in the land, facilities or equipment used in the registered farmers market activity or the dangerous propensity of a particular animal used in such activity and does not make the dangerous condition known to the participant and the dangerous condition causes the participant to sustain injuries or death.

Added by Laws 2017, c. 206, § 3, eff. Nov. 1, 2017.

§2-5-21. Renumbered as § 10-71 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-21.1. Renumbered as § 10-72 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-21.2. Renumbered as § 10-73 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-22. Renumbered as § 10-74 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-23. Renumbered as § 10-75 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-24. Renumbered as § 10-76 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-25. Renumbered as § 10-77 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-25.1. Renumbered as § 10-78 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-26. Renumbered as § 10-79 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-27. Renumbered as § 10-80 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-28. Renumbered as § 10-81 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-29. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-5-30. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-5-47. Repealed by Laws 1990, c. 249, § 11, eff. Jan. 1, 1991.

§2-5-51. Repealed by Laws 1990, c. 249, § 11, eff. Jan. 1, 1991.

§2-5-52. Repealed by Laws 1990, c. 249, § 11, eff. Jan. 1, 1991.

§2-5-53. Repealed by Laws 1990, c. 249, § 11, eff. Jan. 1, 1991.

§2-5-54. Repealed by Laws 1990, c. 249, § 11, eff. Jan. 1, 1991.

§2-5-58. Repealed by Laws 1990, c. 249, § 11, eff. Jan. 1, 1991.

§2-5-59. Oklahoma Trade Development program - Establishment - Participating entities - Purpose.

A. The State Board of Agriculture shall establish an Oklahoma Trade Development program to further the processing and marketing of Oklahoma food products and renewable resources.

B. All applicable agencies including, but not limited to, the Division of Agriculture at Oklahoma State University, the Department of Commerce, and the Corporation Commission shall cooperate in the program.

C. The Oklahoma Trade Development Center shall consider the following subjects:

1. The possibility of a food processing center to assist in the marketing of intrastate and interstate distribution to increase the awareness of Oklahoma food products.

2. The possibilities for value-added products to be derived from Oklahoma's renewable resources.

Added by Laws 1987, c. 106, § 1, emerg. eff. May 22, 1987. Amended by Laws 2000, c. 243, § 52, emerg. eff. May 24, 2000.

§2-5-60. Industry Advisory Committee within Oklahoma Food and Agricultural Products Research and Technology Center - Members - Subcommittees - Compensation - Quorum - Assistance.

A. There is hereby created the "Industry Advisory Committee" within the Oklahoma Food and Agricultural Products Research and Technology Center located at Oklahoma State University in Stillwater, Oklahoma. The Committee shall consist of one ex officio nonvoting member and fifteen appointed members. The Committee shall be advisory to the Oklahoma Food and Agricultural Products Research and Technology Center. The Committee shall assist and advise the Oklahoma Food and Agricultural Products Research and Technology Center in prioritizing projects, in setting fees, and in creating and designing joint ventures for the development and advancement of the production, processing, handling, and marketing of agricultural commodities, so the Center may meet the needs of the state's value-added processing entities.

B. The Committee shall consist of sixteen (16) members as follows:

1. The Dean of the Division of Agricultural Sciences and Natural Resources of Oklahoma State University shall serve as an ex officio nonvoting member;

2. The Governor shall appoint four members to serve three-year terms, two of whom shall be nationally based food processors, one of whom shall be a member of the "Made in Oklahoma" organization, and one of whom shall represent a state, county, or city economic development agency. Of the members initially appointed, two shall serve a one-year term, one shall serve a two-year term, and one shall serve a three-year term;

3. The President Pro Tempore of the Senate shall appoint four members to serve three-year terms, one of whom shall be involved in

food transportation, one of whom shall be involved in textiles, one of whom shall be involved in industrial or pharmaceutical products, and one of whom shall be an Oklahoma-based food processor. Of the members initially appointed, one shall serve a one-year term, two shall serve a two-year term, and one shall serve a three-year term;

4. The Speaker of the House of Representatives shall appoint four members to serve three-year terms, one of whom shall be involved in food marketing, one of whom shall be involved in food distribution, one of whom shall be involved in industrial or pharmaceutical products, and one of whom shall be an Oklahoma-based food processor. Of the members initially appointed, one shall serve a one-year term, one shall serve a two-year term, and two shall serve a three-year term; and

5. The Dean of the Division of Agricultural Sciences and Natural Resources of Oklahoma State University shall appoint three members to serve three-year terms, one of whom shall be an Oklahoma-based food processor, and two of whom shall be involved in production agriculture. Of the members initially appointed, one shall serve a one-year term, one shall serve a two-year term, and one shall serve a three-year term.

C. Any vacancies in the appointed membership of the Industry Advisory Committee shall be filled in the same manner as the original appointment.

D. The Committee shall elect from among its members a chair, vice-chair, and any other officers that the Committee determines necessary.

E. The Committee shall meet at least biannually.

F. The Committee may appoint subcommittees as necessary to carry out its duties pursuant to this section.

G. Members of the Committee shall not receive a salary for duties performed by the Committee. Members of the Committee shall be reimbursed for necessary travel expenses incurred in the performance of their official duties in accordance with the State Travel Reimbursement Act. The Oklahoma Food and Agricultural Products Research and Technology Center shall be responsible for paying travel expenses.

H. A majority of the members shall constitute a quorum.

I. The Oklahoma Food and Agricultural Products Research and Technology Center shall provide staff assistance for the Committee. Added by Laws 1996, c. 87, § 1, eff. July 1, 1996. Amended by Laws 2000, c. 243, § 53, emerg. eff. May 24, 2000.

§2-5-60.1. Short title.

This act shall be known and may be cited as the "Oklahoma Farm to School Program Act".

Added by Laws 2006, c. 257, § 1, eff. Nov. 1, 2006.

§2-5-60.2. Legislative findings.

A. The Legislature recognizes that:

1. Farm to School Programs link schools and Oklahoma farms in order to provide schools with fresh and minimally processed farm commodities for inclusion in school meals and snacks, to help children develop healthy eating habits, and to improve Oklahoma farmers' incomes and direct access to markets; and

2. The benefits of Farm to School Programs often include activities that provide students with hands-on learning opportunities, such as farm visits, cooking demonstrations, and school gardening and composting programs, and integrate nutrition and agriculture education into school curricula.

B. It is the intent of the Legislature that school districts encourage the implementation of the Oklahoma Farm to School Program, which will emphasize the purchase of locally and regionally produced foods in order to improve child nutrition and strengthen local and regional farm economies.

C. A successful statewide Farm to School Program will require the resources, expertise, and collaboration of a variety of state agencies, including the State Department of Education, the State Department of Health, the Oklahoma Department of Agriculture, Food, and Forestry, the Department of Human Services, and a nonprofit agency that has experience in Farm to School Programs.

Added by Laws 2006, c. 257, § 2, eff. Nov. 1, 2006.

§2-5-60.3. Oklahoma Farm to School Program - Agency staff to implement.

A. There is hereby created the Oklahoma Farm to School Program within the Oklahoma Department of Agriculture, Food, and Forestry. The Department shall employ a director to administer and monitor the programs and activities related to the Oklahoma Farm to School Program with the advice of and guidance of a nonprofit food policy council.

B. The following agencies shall make staff available to the Oklahoma Farm to School Program for the purpose of providing professional consultation and staff support to assist the implementation of this act:

1. Oklahoma Department of Agriculture, Food, and Forestry;
2. State Department of Health;
3. State Department of Education; and
4. Department of Human Services.

Added by Laws 2006, c. 257, § 3, eff. Nov. 1, 2006.

§2-5-60.4. Duties of director.

The duties of the director shall include, but not be limited to:

1. Identifying and promoting the critical components of individual Farm to School Programs and advising the agencies on

needed actions and strategies to implement the Oklahoma Farm to School Program;

2. Establishing a partnership with public and nonprofit sources to implement a public engagement campaign and establish a structure to facilitate communication between farmers and school districts;

3. Providing leadership at the state level to encourage school districts to develop and improve school nutrition plans using locally grown farm-fresh products;

4. Conducting workshops, training sessions, and technical assistance to school food services directors, personnel, farmers, and produce distributors and processors regarding the demand for and the availability of Oklahoma farm products; and

5. Seeking grants from private donations and other funding sources.

Added by Laws 2006, c. 257, § 4, eff. Nov. 1, 2006.

§2-5-60.5. Program web site.

A. The Oklahoma Department of Agriculture, Food, and Forestry shall establish a Farm to School Program web site for the State of Oklahoma. A direct link to the Farm to School Program web site shall be maintained on the home pages of the State of Oklahoma, the State Department of Education, and the Oklahoma Department of Agriculture, Food, and Forestry.

B. The purpose of the Farm to School Program web site shall be to assist schools and farmers in the coordination of fresh food procurement.

Added by Laws 2006, c. 257, § 5, eff. Nov. 1, 2006.

§2-5-60.6. Authority to promulgate rules.

The Oklahoma Department of Agriculture, Food, and Forestry is authorized to promulgate rules as necessary to carry out the provisions of this act.

Added by Laws 2006, c. 257, § 6, eff. Nov. 1, 2006.

§2-5-60.10. Short title - Oklahoma Agricultural Commodity Act.

This act shall be known and may be cited as the "Oklahoma Agricultural Commodity Act".

Added by Laws 1999, c. 123, § 1, eff. July 1, 1999. Amended by Laws 2014, c. 1, § 1, eff. July 1, 2014.

§2-5-60.11. Purpose of act.

A. The purpose of the Oklahoma Agricultural Commodity Act is:

1. To authorize and prescribe the necessary procedures by which the producers of agricultural commodities grown in this state may establish agricultural commodity producers boards to finance programs devised to alleviate any circumstance or condition that serves to

impede the production, marketing, research or use of agricultural commodities; and

2. To establish a procedure for an existing statutory commodity board to privatize and convert to a successor organization.

B. Agriculture commodity producers boards established pursuant to the Oklahoma Agricultural Commodity Act shall be state agencies for purposes of The Governmental Tort Claims Act and are exempt from taxation in the same manner and to the same extent as other state agencies. The board shall not be considered a state agency for any other purpose.

Added by Laws 1999, c. 123, § 2, eff. July 1, 1999. Amended by Laws 2014, c. 1, § 2, eff. July 1, 2014.

§2-5-60.12. Definitions.

As used in the Oklahoma Agricultural Commodity Act:

1. "Agricultural commodity" means an agricultural commodity, horticultural commodity, silvicultural commodity, or agricultural product, horticultural product, viticulture, or silvicultural product, or bees and honey, planting seed, livestock or livestock product, or poultry or poultry product produced in this state, either in its natural state or as processed by the producer;

2. "Board" means an agricultural commodity producers board of a certified organization or a successor organization;

3. "Certified organization" means the agricultural commodity entity certified by the Oklahoma Department of Agriculture, Food, and Forestry to conduct a referendum;

4. "Commissioner" means the Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry;

5. "District" means a geographical area within the jurisdiction of a board;

6. "Person" means an individual, firm, corporation, association, or any other business entity;

7. "Processor" means a person who:

- a. is a purchaser, warehouseman, processor, or other commercial handler of an agricultural commodity, or
- b. is engaged in the operation of packing, grading, selling, offering for sale or marketing any agricultural commodity in commercial quantities as defined in a marketing program, who as owner, agent, or otherwise, ships or causes agricultural commodities to be shipped;

8. "Producer" means a person engaged in the business of producing or causing to be produced for commercial purposes an agricultural commodity. The term "producer" includes the owner of a farm on which the commodity is produced and the owner's tenant or sharecropper;

9. "Successor organization" means the agricultural commodity entity approved by the Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry to succeed an existing statutory commodity producers board; and

10. "Volume of production" shall be defined by the certified organization and can refer to units of product sold such as pounds, tons, bushels, gallons, flats, containers, packages, or other commonly recognized units of measure, square footage or acreage of production space or other appropriate measurement units, or number of production units such as trees, vines, head count of livestock or poultry, or other commonly recognized measurement units, or gross sales.

Added by Laws 1999, c. 123, § 3, eff. July 1, 1999. Amended by Laws 2014, c. 1, § 3, eff. July 1, 2014.

§2-5-60.13. Petition for certification - Public hearing.

A. 1. Any nonprofit organization authorized under the laws of this state representing the producers of an agricultural commodity may petition the Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry for certification as the organization authorized to establish a new commodity producers board and conduct an assessment referendum pursuant to the Oklahoma Agricultural Commodity Act.

2. The petition shall state:

- a. the reasons for and the purposes of the commodity producers board,
- b. the number of board members and board organization,
- c. propose either a six-member, nine-member, twelve-member or fifteen-member board and whether board members will be appointed by district or appointed at large,
- d. the maximum assessment to be levied pursuant to an election, and
- e. such other information required by the Commissioner;

3. The petition shall be signed by at least twenty percent (20%) of the commodity producers in the state or at least two hundred commodity producers, whichever is less.

B. 1. Any new nonprofit organization authorized under the laws of this state representing the producers of an agricultural commodity may petition the Commissioner for approval as a successor organization authorized to replace an existing statutory commodity producers board.

2. The petition shall:

- a. state the existing statutory commodity producers board to be replaced,
- b. provide the bylaws for review and approval by the Commissioner for the new nonprofit organization, and

- c. provide any other information required by the Commissioner.

3. The petition shall be signed by a majority of the board members of the existing statutory commodity producers board.

4. Any new nonprofit organization petitioning the Commissioner may retain the name of the existing statutory commodity producers board.

C. 1. Within fifteen (15) days following the day on which a petition for certification is received, the Commissioner shall schedule a public hearing to consider the petition. The public hearing shall be scheduled no later than forty (40) days after receipt of the completed petition is received by the Department.

2. Upon the scheduling of the public hearing, the nonprofit organization shall provide for notification of interested commodity producers in the manner, method and locations required by the Department.

3. If the Commissioner determines that, on the basis of testimony presented at the public hearing, the petitioning organization is representative of the producers of the agricultural commodity and that the petition conforms to the purposes and provisions of the Oklahoma Agricultural Commodity Act, the Commissioner shall:

- a. certify that the organization is representative of the producers of the commodity and is authorized to establish the commodity producers board and to conduct the board election and assessment referendum, or
- b. approve the new nonprofit organization as a successor organization authorized to accept the statutory assessment.

Added by Laws 1999, c. 123, § 4, eff. July 1, 1999. Amended by Laws 2014, c. 1, § 4, eff. July 1, 2014.

§2-5-60.14. Commodity producers board - Ballot - Notice by publication - Written notice.

A. A certified organization that does not have a statutory assessment may establish a new commodity producers board and conduct an election of members to the commodity producers board for the commodity. The ballot shall also provide for a referendum of the producers of an agricultural commodity on the proposition of whether or not the producers shall levy an assessment on themselves to finance programs of research, disease and insect control, predator control, education, or promotion designed to encourage the production, marketing, and use of the commodity. The certified organization shall give public notice of:

1. The date, hours, and polling places for voting in the referendum and election;

2. The estimated amount and basis of the assessment proposed to be collected;

3. Whether a producer exemption is to be allowed in accordance with Section 5-60.18 of this title; and

4. A description of the manner in which the assessment is to be collected and the proceeds administered and used.

B. The notice under subsection A of this section shall be published in one or more newspapers published and distributed within the boundaries described in the petition. The notice shall be published for not less than once a week for three (3) consecutive weeks, beginning at least sixty (60) days before the date of the election. In addition, at least sixty (60) days before the date of the election, the certified organization shall give direct written notice to each county extension educator in any county within the boundaries described in the petition.

C. A successor organization shall follow the board election procedures set in the bylaws of the successor organization and the statutory assessment provisions for the particular commodity represented by the successor organization.

Added by Laws 1999, c. 123, § 5, eff. July 1, 1999. Amended by Laws 2014, c. 1, § 5, eff. July 1, 2014.

§2-5-60.15. Conduction of election and referendum - Eligibility to vote - Candidates - Write-in votes.

A. Subject to the approval of the Commissioner, the certified organization shall conduct the election and referendum on a statewide basis.

B. A producer of the agricultural commodity is eligible to vote in the election and referendum if:

1. The producer's production occurs within the state; and

2. The producer would be required under the referendum to pay the assessment.

C. Any producer who is eligible to vote at the election and referendum is eligible to be a member or a candidate for membership on the commodity producers board.

D. A potential candidate shall file with the certified organization an application to have the name of such potential candidate printed on the ballot. The application shall be signed by the candidate and by at least ten producers who are eligible to vote at the election. The application shall be filed at least thirty (30) days before the date set for the election.

E. A voter may vote for board members by writing in the name of any eligible person whose name is not printed on the ballot.

F. A successor organization shall follow the board election procedures set in the bylaws of the successor organization and the statutory assessment provisions for the particular commodity represented by the successor organization.

Added by Laws 1999, c. 123, § 6, eff. July 1, 1999. Amended by Laws 2014, c. 1, § 6, eff. July 1, 2014.

§2-5-60.16. Preparation and distribution of ballots - Contents.

A. The certified organization shall prepare and distribute all necessary ballots in advance of the referendum and election and shall cause ballots to be available at all polling places.

B. The referendum provisions of the ballot shall specify a maximum rate for the authorized assessment.

C. The election provisions of the ballot may be printed only with the names of candidates who have filed valid petitions under Section 5-60.15 of this title, but the ballot shall provide a space for write-in votes.

D. The ballot shall provide a space for the voter to certify the volume of the voter's production of the commodity during the preceding year or other relevant production period, as designated on the ballot.

E. A successor organization shall follow the board election procedures set in the bylaws of the successor organization and the statutory assessment provisions for the particular commodity represented by the successor organization.

Added by Laws 1999, c. 123, § 7, eff. July 1, 1999. Amended by Laws 2014, c. 1, § 7, eff. July 1, 2014.

§2-5-60.17. Expenses - Reimbursement.

The certified organization is responsible for all expenses incurred in connection with the referendum and election, but it may be reimbursed for actual and necessary expenses out of funds deposited in the treasury of the commodity producers board if the assessment is levied and collected.

Added by Laws 1999, c. 123, § 8, eff. July 1, 1999.

§2-5-60.18. Exemption from assessment.

A. The original referendum and subsequent board elections may provide exemptions for producers from payment of the assessment if the exemptions are included in full written form on the election ballot and are approved by:

1. Two-thirds or more of those voting in the election; or
2. More than one-half of those voting in the election and those voting in favor of the proposition produce at least fifty percent (50%) of the volume of production of the commodity during the relevant production period.

B. A successor organization shall follow the board election procedures set in the bylaws of the successor organization and the statutory assessment provisions for the particular commodity represented by the successor organization.

Added by Laws 1999, c. 123, § 9, eff. July 1, 1999. Amended by Laws 2014, c. 1, § 8, eff. July 1, 2014.

§2-5-60.19. Contest of election - Voting of ballots - Overstatement of volume of production.

A. In any contest of an election, a ballot is void if the voter overstated the volume of production of the producer by more than ten percent (10%). Any other error in stating volume of production is not grounds for invalidating the ballot.

B. If a ballot is void or if any other error is made in stating production volume, the returns shall be corrected and the results adjusted accordingly.

C. In the original referendum election, the Commissioner shall be authorized and is responsible for making the determination if a ballot is void due to overstatement of production volume. In any subsequent referendum elections the individual commodity producer boards are authorized and shall be responsible for making such determination.

D. A successor organization shall follow the board election procedures set in the bylaws of the successor organization and the statutory assessment provisions for the particular commodity represented by the successor organization.

Added by Laws 1999, c. 123, § 10, eff. July 1, 1999. Amended by Laws 2014, c. 1, § 9, eff. July 1, 2014.

§2-5-60.20. Determination of election results.

A. Upon receiving the report of the returns of an election and referendum, the Commissioner shall determine:

1. The number of votes cast for and against the referendum proposition;

2. The total volume of production of the commodity during the relevant production period;

3. The percentage of the total volume of production of the commodity that was produced by those voting in favor of the referendum proposition; and

4. The appropriate number of candidates receiving the highest number of votes for membership on the commodity producers board.

B. A successor organization shall follow the board election procedures set in the bylaws of the successor organization and the statutory assessment provisions for the particular commodity represented by the successor organization.

Added by Laws 1999, c. 123, § 11, eff. July 1, 1999. Amended by Laws 2014, c. 1, § 10, eff. July 1, 2014.

§2-5-60.21. Certification of adoption or defeat of referendum proposition.

A. In a referendum election, if the Commissioner finds that either of the two conditions set forth in subsection B of this section are met, the Commissioner shall publicly certify the adoption of the referendum proposition and issue certificates of election to those persons elected to the board. Otherwise the Commissioner shall certify that the referendum proposition was defeated.

B. The referendum proposition will be adopted upon a finding that:

1. Two-thirds or more of those voting in the election voted in favor of the referendum proposition; or

2. More than one-half of those voting in the election voted in favor of the referendum proposition, and those voting in favor of the proposition produced at least fifty percent (50%) of the volume of the production of the commodity during the relevant production period.

C. A successor organization shall follow the board election procedures set in the bylaws of the successor organization and the statutory assessment provisions for the particular commodity represented by the successor organization.

Added by Laws 1999, c. 123, § 12, eff. July 1, 1999. Amended by Laws 2014, c. 1, § 11, eff. July 1, 2014.

§2-5-60.22. Board elections.

A certified organization shall conduct elections for the purpose of electing members to the board on a schedule listed in the bylaws of the certified organization. The board shall give notice and hold the election in accordance with the applicable provisions of the Oklahoma Agricultural Commodity Act relating to the initial election and, to the extent necessary, in accordance with the rules of the Oklahoma Department of Agriculture, Food, and Forestry.

Added by Laws 1999, c. 123, § 13, eff. July 1, 1999. Amended by Laws 2014, c. 1, § 12, eff. July 1, 2014.

§2-5-60.23. Establishment of board upon certification of referendum results.

If the Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry certifies adoption of a referendum proposition under Section 5-60.21 of this title, the new commodity producers board is established and has the powers and duties prescribed by the Oklahoma Agricultural Commodity Act.

Added by Laws 1999, c. 123, § 14, eff. July 1, 1999. Amended by Laws 2014, c. 1, § 13, eff. July 1, 2014.

§2-5-60.24. Meeting and organization of board - Terms of office.

A. On receiving certificates of election from the Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry, the certified organization's board shall meet and organize.

B. Members of the certified organization's initial board shall draw lots so that one-third (1/3) of the members shall hold office for two (2) years, one-third (1/3) for four (4) years, and one-third (1/3) for six (6) years. Thereafter, members of the board shall serve for terms of six (6) years.

C. Each member holds office until a successor is elected and has qualified.

Added by Laws 1999, c. 123, § 15, eff. July 1, 1999. Amended by Laws 2014, c. 1, § 14, eff. July 1, 2014.

§2-5-60.25. Officers of board - Bond.

A. The commodity producers board shall elect from its members a chair, a secretary-treasurer, and other officers that it considers necessary.

B. The secretary-treasurer shall execute a corporate surety bond in an amount required by the board. The bond shall be conditioned on the secretary-treasurer faithfully accounting for all money that comes into the custody of the officer. The bond shall be filed with the Commissioner.

C. The board shall fill any vacancy on the board by appointment for the unexpired term.

D. A majority vote of all members present is necessary for an action of the board to be valid.

E. Members of the board serve without compensation but are entitled to reimbursement from their commission for reasonable and necessary expenses incurred in the discharge of their duties.

Added by Laws 1999, c. 123, § 16, eff. July 1, 1999.

§2-5-60.26. Powers and duties of board - Rules.

A. The commodity producers board shall have the power and duty to:

1. Employ personnel deemed necessary by the board, fix the amount and manner of their compensation, and incur other expenses that are necessary and proper to enable the board to effectively carry out the purposes of the Oklahoma Agricultural Commodity Act;

2. Adopt and amend bylaws as necessary to promptly and effectively administer the Oklahoma Agricultural Commodity Act;

3. Retain legal counsel as is required to fulfill the purposes of the Oklahoma Agricultural Commodity Act;

4. Sue and be sued;

5. Initiate prosecution and civil remedies necessary to collect any assessments due and owing to the commodity producers board;

6. Cooperate with local, state, national or international organizations, whether public or private, in carrying out the purposes of contracts as may be necessary;

7. Make such reasonable expenditures of funds as is necessary to carry out the provisions of the Oklahoma Agricultural Commodity Act;

8. Call and conduct such meetings and elections as may be necessary in carrying out the provisions of the Oklahoma Agricultural Commodity Act;

9. Keep minutes of its meetings and other books and records that clearly reflect all acts and transactions of the board. The board shall open its records to examination by any participating producer or the Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry during regular business hours; provided, the board may determine in bylaws that certain information provided by a commodity producer is confidential due to proprietary or privacy reasons;

10. Set the rate of the assessment. The rate may not exceed the maximum established by statute in the case of successor organization or in the election authorizing the assessment or a subsequent election establishing a maximum rate in the case of a certified organization;

11. Deposit all monies received by the board, including but not limited to assessments, donations, and grants, in a bank selected by the board and invest in securities of the state or federal government, certificates of deposit or certificates of any bank, trust company or savings and loan association insured by a federal agency;

12. Establish an office or headquarters as necessary;

13. Purchase, lease, sell, exchange or dispose of real or personal property;

14. Formulate general policies and programs for the education, discovery, promotion, and development of markets and industries for the utilization of the commodity in cooperation with the Oklahoma Department of Agriculture, Food, and Forestry;

15. Hire or retain legal counsel to represent the board in any matter and producers in matters pertaining to transportation problems and other matters which could result in potential substantial loss to producers;

16. Borrow money for any lawful purpose;

17. Act separately or in cooperation with any person in developing, carrying out, and participating in programs of research, disease and insect control, predator control, education, and promotion designed to encourage the production, marketing, and use of the commodity on which the assessment is levied; and

18. Exercise such other powers as necessary to carry out the purposes of the Oklahoma Agricultural Commodity Act.

B. The State Board of Agriculture may promulgate rules for the establishment of commodity producer boards pursuant to the Oklahoma Agricultural Commodity Act as necessary. The rules shall ensure that such commodity producer boards are established and administered in a uniform manner.

Added by Laws 1999, c. 123, § 17, eff. July 1, 1999. Amended by Laws 2014, c. 1, § 15, eff. July 1, 2014.

§2-5-60.27. Annual budget - Audits - Annual reports - State budget and expenditure limitations.

A. The commodity producers board shall provide the annual budget to the Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry.

B. Accounts of the board are subject to audit on a consistent schedule as established in the organization's bylaws.

C. Within ninety (90) days following the end of each fiscal year of the board, the board shall submit an annual report itemizing all income and expenditures and describing all activities of the board during the previous fiscal year to the Commissioner.

D. Funds collected by the commodity producers board pursuant to the Oklahoma Agricultural Commodity Act or other statute authorizing an assessment shall not be subject to state budget and expenditure limitations. Such funds shall at no time become monies of the state or become part of the general budget of the state. Debts or obligations of the board shall not be construed to be debts or obligations of this state.

Added by Laws 1999, c. 123, § 18, eff. July 1, 1999. Amended by Laws 2014, c. 1, § 16, eff. July 1, 2014.

§2-5-60.28. Assessments, donations and grants - Purpose of expenditures.

A. The board is authorized to receive assessments as provided for in the Oklahoma Agricultural Commodity Act or other statute authorizing an assessment, and donations or grants from any source.

B. Money received by the board may be expended for the purpose of implementing the provisions of the Oklahoma Agricultural Commodity Act.

C. Funds assessed and collected under this act shall not be expended for use directly or indirectly to promote or oppose the election of any candidate for public office.

Added by Laws 1999, c. 123, § 19, eff. July 1, 1999. Amended by Laws 2014, c. 1, § 17, eff. July 1, 2014.

§2-5-60.29. Collection of assessment.

A. The processor at the first point of sale determined by the board shall collect the assessment. Except as provided by subsection B of this section, the processor at that point shall collect the assessment by deducting the appropriate amount from the purchase price of the commodity or from any funds advanced for that purpose.

B. If the producer and processor are the same legal entity, or if the producer retains ownership after processing, such entity shall remit the assessment at the time of first sale of the commodity.

C. The board, by registered or certified mail, shall notify each processor of the duty to collect the assessment, the manner in which

the assessment is to be collected, and the date on or after which the processor is to begin collecting the assessment.

D. The amount of the assessment collected shall be clearly shown on the sales invoice or other document evidencing the transaction. The processor shall furnish a copy of the document to the producer.

E. Unless otherwise provided by the original referendum, no later than the tenth day of each month the processor shall remit the amount collected during the previous month to the board.

F. No commodity shall be subject to the applicable fee more than once per growing season.

G. A successor organization shall follow the assessment requirements and procedures established in the statutory provisions for the particular commodity represented by the successor organization, if applicable.

Added by Laws 1999, c. 123, § 20, eff. July 1, 1999. Amended by Laws 2014, c. 1, § 18, eff. July 1, 2014.

§2-5-60.30. Refund.

A. A producer who has paid an assessment may obtain a refund of the amount paid by filing an application for refund with the certified organization within sixty (60) days after the date of payment. The application shall be in writing, on a form prescribed by the board for that purpose, and accompanied by proof of payment of the assessment.

B. The certified organization shall pay the refund to the producer before the eleventh day of the month following the month in which the application for refund and proof of payment are received.

C. A successor organization shall follow the refund requirements established in the statutory provisions for the particular commodity represented by the successor organization, if applicable.

Added by Laws 1999, c. 123, § 21, eff. July 1, 1999. Amended by Laws 2014, c. 1, § 19, eff. July 1, 2014.

§2-5-60.31. Increase of maximum rate of assessment - Abolition of assessment - Referendum.

A. At any election of the commodity producers board, the certified organization may submit to the voters a proposition to increase the maximum rate of assessment. The referendum proposition will be adopted upon a finding that:

1. Two-thirds or more of those voting in the election voted in favor of the referendum proposition; or

2. More than one-half of those voting in the election voted in favor of the referendum proposition, and those voting in favor of the proposition produced at least fifty percent (50%) of the volume of the production of the commodity during the relevant production period.

B. 1. If twenty percent (20%) or more of the producers participating in the program present to the certified organization a petition calling for a referendum of the qualified voters on the proposition of discontinuing the assessment, the certified organization shall conduct a referendum for that purpose. An election on a proposition of discontinuing the assessment shall be held no more than once per year.

2. The certified organization shall give notice of the referendum, the referendum shall be conducted, and the results shall be declared in the manner provided by law for the original referendum and election, with any necessary exceptions provided in bylaws of the certified organization.

3. The certified organization shall conduct the referendum within ninety (90) days of the date of filing of the petition.

4. The proposition shall be approved if:

- a. two-thirds or more of those voting in the election voted in favor of the referendum proposition, or
- b. more than one-half of those voting in the election voted in favor of the referendum proposition, and those voting in favor of the proposition produced at least fifty percent (50%) of the volume of the production of the commodity during the relevant production period.

C. If the proposition is approved, the assessment is abolished.

D. A successor organization shall follow the statutory assessment provisions and the assessment continuation referendum requirements established in the statutory provisions for the particular commodity represented by the successor organization.
Added by Laws 1999, c. 123, § 22, eff. July 1, 1999. Amended by Laws 2014, c. 1, § 20, eff. July 1, 2014.

§2-5-60.32. Failure to remit assessment - Proceedings to recover.

The commodity producers board may investigate conditions that relate to the prompt remittance of the assessment by any producer or processor. If the board determines that a person has failed to remit to the board the required assessment, the board may independently institute proceedings for recovery of the amount due to the board or for injunctive or other appropriate relief.

Added by Laws 1999, c. 123, § 23, eff. July 1, 1999. Amended by Laws 2014, c. 1, § 21, eff. July 1, 2014.

§2-5-60.33. Violations - Injunction - Costs and attorney fees.

A violation of any provision of the Oklahoma Agricultural Commodity Act is unlawful and may be enjoined by a district court of competent jurisdiction. In any action brought by a board which results in an injunction against a person and the court determines that such person has violated any provision of the Oklahoma

Agricultural Commodity Act, the court shall award costs and attorney fees to the board.

Added by Laws 1999, c. 123, § 24, eff. July 1, 1999. Amended by Laws 2014, c. 1, § 22, eff. July 1, 2014.

§2-5-60.34. Exemption from requirements of act.

All commissions and assessments established before July 1, 1999, are exempt from the requirements and provisions of the Oklahoma Agricultural Commodity Act. However, any statutory commodity board that is replaced by a successor organization approved by the Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry shall be subject to the provisions of this act.

Added by Laws 1999, c. 123, § 25, eff. July 1, 1999. Amended by Laws 2014, c. 1, § 23, eff. July 1, 2014.

§2-5-60.35. Membership of Oklahoma Public Employees Retirement System - Employer contributions - Accumulated annual leave and sick leave.

A. If a statutory commodity producers board becomes a successor organization, all persons employed by a statutory commodity producers board prior to the date of approval by the Commissioner shall remain members of the Oklahoma Public Employees Retirement System until retirement or termination, at the election of the employee.

B. For all employees who remain members of the Oklahoma Public Employees Retirement System pursuant to subsection A of this section, the successor organization shall pay the required employer contributions applicable to the participating employers in the Oklahoma Public Employees Retirement System pursuant to Section 920 of Title 74 of the Oklahoma Statutes and the employee shall continue to pay employee contributions as required by Section 919.1 of Title 74 of the Oklahoma Statutes.

C. All employees of a statutory commodity producers board who remain members of the Oklahoma Public Employees Retirement System pursuant to subsection A of this section shall continue to be eligible employees for purposes of Sections 901 through 932 of Title 74 of the Oklahoma Statutes. The successor organization shall be considered a participating employer, as defined by paragraph (25) of Section 902 of Title 74 of the Oklahoma Statutes only for such employees.

D. No person initially employed by the successor organization after the date of approval by the Commissioner shall be allowed to participate in the Oklahoma Public Employees Retirement System during the term of their employment with the successor organization, regardless of whether that employee was previously employed by a participating employer in the Oklahoma Public Employees Retirement System.

E. 1. All annual leave and sick leave accumulated prior to the date of approval by the Commissioner, by an employee who remains a member of the Oklahoma Public Employees Retirement System pursuant to subsection A of this section will be recognized by the successor organization, subject to all accrual limitations in the Oklahoma Statutes.

2. Beginning on the date of approval by the Commissioner, employees of the successor organization shall not accrue annual leave and sick leave pursuant to Section 840-2.20 of Title 74 of the Oklahoma Statutes, but may accrue annual leave and sick leave according to a policy established by the successor organization at a rate not to exceed that of state employees under Title 74 of the Oklahoma Statutes.

3. The total participating service credit of a member who retires or terminates employment and elects a vested benefit shall include unused sick leave not to exceed the limitation imposed by paragraph 7 of subsection B of Section 913 of Title 74 of the Oklahoma Statutes. If unused sick leave entitles a member to an additional year of service credit, the successor organization shall reimburse the System for the cost of funding the additional reserve. The successor organization shall provide the System with adequate and timely information necessary to determine additional benefits and its cost under this paragraph.

Added by Laws 2014, c. 1, § 24, eff. July 1, 2014.

§2-5-60.36. Transfer of funds, equipment, and property to successor organization.

All funds, equipment, and all other property shall transfer from the statutory commodity board to the successor organization immediately upon approval of the successor organization by the Commissioner. All funds, equipment, and other property so transferred shall no longer be considered state funds or state property and may be transferred or disposed by the successor organization without regard to state surplus property laws.

Added by Laws 2014, c. 1, § 25, eff. July 1, 2014.

§2-5-61a. Renumbered as § 14-31 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-61b. Renumbered as § 14-32 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-61c. Renumbered as § 14-33 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-61d. Renumbered as § 14-34 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-61e. Renumbered as § 14-35 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-61f. Renumbered as § 14-36 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-61g. Renumbered as § 14-37 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-61h. Renumbered as § 14-38 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-61i. Renumbered as § 14-39 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-61j. Renumbered as § 14-40 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-61k. Renumbered as § 14-41 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-61l. Renumbered as § 14-42 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-61m. Renumbered as § 14-43 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-61n. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-5-62.1. Renumbered as § 14-61 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-62.2. Renumbered as § 14-62 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-62.3. Renumbered as § 14-63 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-62.4. Renumbered as § 14-64 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-62.5. Renumbered as § 14-65 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-62.6. Renumbered as § 14-66 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-62.7. Renumbered as § 14-67 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-62.8. Renumbered as § 14-68 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-62.9. Renumbered as § 14-69 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-5-62.10. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-5-63.1. Short title - Commodity Research Enhancement Act.

This act shall be known and may be cited as the "Commodity Research Enhancement Act".

Added by Laws 2014, c. 371, § 1, eff. Nov. 1, 2014.

§2-5-63.2. Definitions.

As used in the Commodity Research Enhancement Act:

1. "Agricultural commodity" means an agricultural commodity, horticultural commodity, silvicultural commodity, or agricultural product, horticultural product, viticulture, or silvicultural product, or bees and honey, planting seed, rice, livestock or livestock product, or poultry or poultry product produced in this state, either in its natural state or as processed by the producer;

2. "Board" means federally approved commodity board;

3. "Commissioner" means the Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry;

4. "District" means a geographical area within the jurisdiction of a board;

5. "Federally approved commodity board" means a board organized and sanctioned by the United States Department of Agriculture to receive a federal assessment for the specific commodity;

6. "Nonprofit commodity organization" means any organization representing commodity producers with the ability to seek a state assessment and designate a federally approved commodity board as the recipient;

7. "Person" means an individual, firm, corporation, association, or any other business entity;

8. "Processor" means a person who:

- a. is a purchaser, warehouseman, processor, or other commercial handler of an agricultural commodity, or
- b. is engaged in the operation of packing, grading, selling, offering for sale or marketing any

agricultural commodity in commercial quantities as defined in a marketing program, who as owner, agent, or otherwise, ships or causes agricultural commodities to be shipped;

9. "Producer" means a person engaged in the business of producing or causing to be produced for commercial purposes an agricultural commodity. The term "producer" includes the owner of a farm on which the commodity is produced and the owner's tenant or sharecropper; and

10. "Volume of production" shall be defined by the certified organization and can refer to units of product sold such as pounds, bushels, gallons, flats, containers, packages, or other commonly recognized units of measure, square footage or acreage of production space or other appropriate measurement units, or number of production units, such as trees, vines, head count of livestock or poultry, or other commonly recognized measurement units, or gross sales.

Added by Laws 2014, c. 371, § 2, eff. Nov. 1, 2014.

§2-5-63.3. Petition for state assessment referendum.

A. 1. Any nonprofit commodity organization may petition the Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry to request approval to conduct a state assessment referendum pursuant to the Commodity Research Enhancement Act.

2. The petition shall state:

- a. the name of the nonprofit organization that will conduct the referendum,
- b. the reasons for and the purposes of the state assessment,
- c. the federally approved commodity board that will be designated by the nonprofit commodity organization as the recipient of the state assessment,
- d. the maximum state assessment to be levied pursuant to an election,
- e. the names and number of positions held by each nonprofit commodity organization on the federally approved commodity board, and
- f. such other information required by the Commissioner.

3. The petition shall be signed by at least ten percent (10%) of the commodity producers in the state.

B. 1. Within fifteen (15) days following the day on which a petition for certification is received, the Commissioner shall schedule a public hearing to consider the petition. The public hearing shall be scheduled no later than forty (40) days after receipt of the completed petition by the Department.

2. Upon the scheduling of the public hearing, the nonprofit commodity organization shall provide for notification of interested

commodity producers in the manner, method and locations required by the Oklahoma Department of Agriculture, Food, and Forestry.

3. If the Commissioner determines that, on the basis of testimony presented at the public hearing, the petitioning nonprofit commodity organization is representative of the producers of the agricultural commodity and that the petition conforms to the purposes and provisions of the Commodity Research Enhancement Act, the Commissioner shall designate the nonprofit commodity organization as representative of the producers of the commodity and authorized to conduct the state assessment referendum.

4. The petitioning nonprofit commodity organization shall be responsible for all costs associated with the Commissioner's consideration of the petition.

Added by Laws 2014, c. 371, § 3, eff. Nov. 1, 2014.

§2-5-63.4. State assessment referendum.

A. A designated nonprofit commodity organization may conduct a referendum of the producers of an agricultural commodity on the proposition of whether or not the producers shall levy a state assessment on themselves to finance programs of research, disease and insect control, predator control, education or promotion designed to encourage the production, marketing and use of the commodity. The designated nonprofit commodity organization shall give public notice of:

1. The date, hours and polling places for voting in the referendum;

2. The estimated amount and basis of the state assessment proposed to be collected;

3. Whether a producer exemption is to be allowed in accordance with Section 8 of this act; and

4. A description of the manner in which the state assessment is to be collected and the proceeds administered and used.

B. The notice under subsection A of this section shall be published in one or more newspapers published and distributed within the boundaries described in the petition. The notice shall be published for not less than once a week for three (3) consecutive weeks, beginning at least sixty (60) days before the date of the election. In addition, at least sixty (60) days before the date of the election, the designated nonprofit commodity organization shall give direct written notice to each county extension educator in any county within the boundaries described in the petition.

Added by Laws 2014, c. 371, § 4, eff. Nov. 1, 2014.

§2-5-63.5. Statewide basis - Eligible voters.

A. Subject to the approval of the Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry, the designated

nonprofit commodity organization shall conduct the referendum on a statewide basis.

B. A producer of the agricultural commodity is eligible to vote in the election and referendum if the producer would be required under the referendum to pay the state assessment.

Added by Laws 2014, c. 371, § 5, eff. Nov. 1, 2014.

§2-5-63.6. Ballots.

A. The designated nonprofit commodity organization shall prepare and distribute all necessary ballots in advance of the referendum and shall cause ballots to be available at all polling places.

B. The ballot shall specify a maximum rate for the authorized state assessment.

C. The ballot shall provide a space for the voter to certify the volume of the voter's production of the commodity during the preceding year or other relevant production period, as designated on the ballot.

Added by Laws 2014, c. 371, § 6, eff. Nov. 1, 2014.

§2-5-63.7. Expenses.

The designated nonprofit commodity organization is responsible for all expenses incurred in connection with the referendum.

Added by Laws 2014, c. 371, § 7, eff. Nov. 1, 2014.

§2-5-63.8. Exemptions for producers.

The original referendum may provide exemptions for producers from payment of the state assessment if the exemptions are included in full written form on the election ballot and the referendum is adopted as outlined in Section 11 of this act.

Added by Laws 2014, c. 371, § 8, eff. Nov. 1, 2014.

§2-5-63.9. Void ballots.

A. In any contest of an election, a ballot is void if the voter overstated the volume of production of the producer by more than ten percent (10%). Any other error in stating volume of production is not grounds for invalidating the ballot.

B. If a ballot is void or if any other error is made in stating production volume, the returns shall be corrected and the results adjusted accordingly.

C. In any referendum election, the Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry shall be authorized and is responsible for making the determination if a ballot is void due to overstatement of production volume.

Added by Laws 2014, c. 371, § 9, eff. Nov. 1, 2014.

§2-5-63.10. Ballot determinations.

Upon receiving the report of the returns of the referendum, the Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry shall determine:

1. The number of votes cast for and against the referendum proposition;
2. The total volume of production of the commodity during the relevant production period; and
3. The percentage of the total volume of production of the commodity that was produced by those voting in favor of the referendum proposition.

Added by Laws 2014, c. 371, § 10, eff. Nov. 1, 2014.

§2-5-63.11. Referendum certification.

A. In a referendum election, if the Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry finds that either of the two conditions set forth in subsection B of this section are met, the Commissioner shall publicly certify the adoption of the referendum proposition. Otherwise, the Commissioner shall certify that the referendum proposition was defeated.

B. 1. The adoption of the referendum proposition will be subject to the referendum process outlined by the federally approved commodity board.

2. In the event that the federally approved commodity board does not have an outlined referendum process, the referendum proposition will be adopted upon finding that:

- a. two-thirds (2/3) or more of those voting in the election voted in favor of the referendum proposition, or
- b. more than one-half (1/2) of those voting in the election voted in favor of the referendum proposition and those voting in favor of the proposition produced at least fifty percent (50%) of the volume of the production of the commodity during the relevant production period.

C. Upon certification of the referendum proposition, the designated federally approved commodity board shall be the recipient of any state assessment.

Added by Laws 2014, c. 371, § 11, eff. Nov. 1, 2014.

§2-5-63.12. Federally approved commodity board - Powers and duties.

The federally approved commodity board shall have the power and duty to:

1. Employ personnel deemed necessary by the board, fix the amount and manner of their compensation, and incur other expenses that are necessary and proper to enable the board to effectively carry out the purposes of the Commodity Research Enhancement Act;

such employees shall not be considered state employees for any purpose;

2. Retain legal counsel as is required to fulfill the purposes of the Commodity Research Enhancement Act;

3. Sue and be sued;

4. Cooperate with local, state or national organizations, whether public or private, in carrying out the purposes of contracts as may be necessary;

5. Make such reasonable expenditures of funds as are necessary to carry out the provisions of the Commodity Research Enhancement Act;

6. The board shall open its state assessment records to examination by any participating producer during regular business hours; provided, the board may determine that certain information provided by a commodity producer is proprietary and confidential;

7. Set the rate of the state assessment. The rate may not exceed the maximum established in the election authorizing the state assessment or a subsequent election establishing a maximum rate;

8. Act separately or in cooperation with any person in developing, carrying out, and participating in programs of research, disease and insect control, predator control, education and promotion designed to encourage the production, marketing and use of the commodity on which the state assessment is levied; and

9. Exercise such other powers as necessary to carry out the purposes of the Commodity Research Enhancement Act.

Added by Laws 2014, c. 371, § 12, eff. Nov. 1, 2014.

§2-5-63.13. Assessment funds - Yearly report.

A. The federally approved commodity board shall not commingle funds derived from the state assessment with any other funds.

B. Within ninety (90) days following the end of each fiscal year of the board, the board shall submit to the Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry a report itemizing all income and expenditures and describing all activities of the board during the previous fiscal year.

C. State assessment funds collected by the federally approved commodity board pursuant to the Commodity Research Enhancement Act shall not be subject to state budget and expenditure limitations. Such funds shall at no time become monies of the state or become part of the general budget of the state. Debts or obligations of the board shall not be construed to be debts or obligations of this state.

Added by Laws 2014, c. 371, § 13, eff. Nov. 1, 2014.

§2-5-63.14. Receipt of funds - Expenses - Restrictions on use of funds.

A. The board is authorized to receive state assessments as provided for in the Commodity Research Enhancement Act, donations from any source and grants from governmental agencies.

B. Money received by the board may be expended for the purpose of implementing the provisions of the Commodity Research Enhancement Act.

C. Funds assessed and collected under this act shall not be expended for use directly or indirectly to promote or oppose the election of any candidate for public office or to influence legislation.

Added by Laws 2014, c. 371, § 14, eff. Nov. 1, 2014.

§2-5-63.15. State assessment collection.

The collection of the state assessment shall be collected in the same manner as the federal assessment for the federally approved commodity.

Added by Laws 2014, c. 371, § 15, eff. Nov. 1, 2014.

§2-5-63.16. Application for refund.

A. A producer who has paid a state assessment may obtain a refund of the amount paid by filing an application for refund with the federally approved commodity board within sixty (60) days after the date of payment. The application must be in writing, on a form prescribed by the board for that purpose, and accompanied by proof of payment of the state assessment.

B. The board shall pay the refund to the producer before the eleventh day of the month following the month in which the application for refund and proof of payment are received.

Added by Laws 2014, c. 371, § 16, eff. Nov. 1, 2014.

§2-5-63.17. Proposition to increase the rate of assessment - Petition to discontinue assessment - Proposition to continue assessment.

A. The nonprofit commodity organization who originally submitted the petition for a referendum may submit to the voters a proposition to increase the maximum rate of the state assessment. The proposition is approved, and the new maximum rate is in effect if the referendum proposition is adopted as outlined in Section 11 of this act.

B. 1. Consistent with the referendum process as outlined by the federally approved commodity board, producers may petition for a referendum to discontinue the state assessment. In the event that the federally approved commodity board does not have an established process, if ten percent (10%) or more of the producers participating in the program present to the federally approved commodity board a petition calling for a referendum of the qualified voters on the proposition of discontinuing the state assessment, the nonprofit

commodity organization who originally submitted the petition for the referendum shall conduct a referendum for that purpose. An election on a proposition of discontinuing the state assessment shall be held no more than once per year.

2. The nonprofit commodity organization shall give notice of the referendum, the referendum shall be conducted, and the results shall be declared in the manner provided by law for the original referendum.

3. The nonprofit commodity organization shall conduct the referendum within ninety (90) days of the date of filing of the petition.

4. The adoption of the referendum proposition will be subject to the referendum process outlined by the federally approved commodity board. In the event that the federally approved commodity board does not have an outlined referendum process, the referendum proposition shall be approved if:

- a. two-thirds (2/3) or more of those voting in the election voted in favor of the referendum proposition, or
- b. more than one-half (1/2) of those voting in the election voted in favor of the referendum proposition and those voting in favor of the proposition produced at least fifty percent (50%) of the volume of the production of the commodity during the relevant production period.

5. If the proposition is approved, the state assessment is abolished.

C. If the federally approved commodity board's federal assessment is increased, the state-approved assessment shall automatically discontinue upon the date the federally approved commodity board's new federal assessment becomes effective, unless within one (1) month of the announcement of the increase, the nonprofit commodity organization that originally submitted the petition for a referendum may initiate a referendum to be conducted within six (6) months of the announcement to determine if the state-approved assessment shall be continued. The proposition referendum to continue the state assessment will be adopted as outlined in Section 11 of this act.

Added by Laws 2014, c. 371, § 17, eff. Nov. 1, 2014.

§2-5-63.18. Failure to remit state assessment.

The federally approved commodity board may investigate conditions that relate to the prompt remittance of the state assessment by any producer or processor. If the board determines that a person has failed to remit to the board the state assessment as required by the Commodity Research Enhancement Act, the board may independently

institute proceedings for recovery of the amount due to the board or for injunctive or other appropriate relief.

Added by Laws 2014, c. 371, § 18, eff. Nov. 1, 2014.

§2-5-71. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-5-72. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-5-73. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-5-74. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-5-75. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-5-76. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-5-77. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-5-78. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-5-79. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-5-80. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-5-81. Short title - Purpose of program.

A. Sections 5-81 through 5-89 of this title shall be known and cited as the "Oklahoma Agricultural Linked Deposit Program".

B. It is the purpose of the Oklahoma Agricultural Linked Deposit Program to provide funding for eligible agricultural businesses. It is the specific intent of the Legislature that any funding provided to eligible agricultural businesses for alternative agricultural products shall diversify Oklahoma's agricultural industry so as to broaden Oklahoma's economic base.

Added by Laws 1987, c. 182, § 1, eff. Feb. 1, 1988. Amended by Laws 1997, c. 367, § 1, eff. July 1, 1997; Laws 2001, c. 146, § 100, emerg. eff. April 30, 2001. Renumbered from § 1761 of this title by Laws 2001, c. 146, § 258, emerg. eff. April 30, 2001.

§2-5-82. Definitions.

As used in the Oklahoma Agricultural Linked Deposit Program:

1. "Agricultural domestic corporation" means any domestic corporation formed or licensed pursuant to the Oklahoma General Corporation Act or a limited domestic liability company formed or licensed pursuant to the Oklahoma Limited Liability Company Act and meeting the requirements of paragraph 5 of subsection A of Section 955 of Title 18 of the Oklahoma Statutes and meeting the requirements of subsection A of Section 951 of Title 18 of the Oklahoma Statutes;

2. "Agricultural linked deposit" means a certificate of deposit placed by the State Treasurer with an eligible lending institution or an investment in bonds, notes, debentures, or other obligations or securities issued by the federal farm credit bank with regard to an eligible lending institution for the purpose of carrying out the intent of this program;

3. "Agricultural Linked Deposit Loan Package" means the forms provided by the State Treasurer for the purpose of applying for an agricultural linked deposit;

4. "Alternative agricultural products" means those products included in a report submitted by the Cooperative Extension Service of Oklahoma State University to the Oklahoma Department of Agriculture, Food, and Forestry, and any other products which the State Board of Agriculture determines will diversify Oklahoma's agricultural industry so as to broaden Oklahoma's economic base;

5. "An at-risk farm or ranch business" shall be one that seeks a production loan and meets the following criteria:

- a. at least sixty percent (60%) of gross income derived from farming and/or ranching, and
- b. a debt-to-asset ratio over forty percent (40%);

6. "Eligible agricultural business" means:

- a. any person engaged in producing, processing, or marketing alternative agricultural products,
- b. any person who is establishing a veterinary practice in which at least thirty percent (30%) of the practice consists of services for large animals and the total loan amount shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00),
- c. an at-risk farm or ranch business, within the State of Oklahoma in operation that has developed a management plan through the Intensive Financial Management and Planning Support (IFMAPS) program of the Cooperative Extension Service of Oklahoma State University or the Farm Business Management Program of the Oklahoma Department of Career and Technology Education, or
- d. a healthy corner store as certified by the Oklahoma Department of Agriculture, Food, and Forestry;

7. "Eligible lending institution" means a financial institution that agrees to participate in the Oklahoma Agricultural Linked Deposit Program, and:

- a. is eligible to be a depository of state funds, or
- b. is an institution of the farm credit system organized under the federal "Farm Credit Act of 1971", 12 U.S.C. 2001, as amended; and

8. "Healthy corner store" means a grocery store certified by the Oklahoma Department of Agriculture, Food, and Forestry pursuant to rules adopted by the State Board of Agriculture that markets locally grown fresh fruits and vegetables and nutritious foods and for which the sale of beer and tobacco products constitutes less than ten percent (10%) of its gross sales excluding gasoline and other nongrocery products, such other requirements as may be established in rules adopted by the State Board of Agriculture, and that is located in a geographical area that is underserved by grocery outlets meeting those requirements.

Added by Laws 1987, c. 182, § 2, eff. Feb. 1, 1988. Amended by Laws 1988, c. 3, § 1, operative Feb. 1, 1988; Laws 1989, c. 248, § 1, eff. Nov. 1, 1989; Laws 1997, c. 367, § 2, eff. July 1, 1997; Laws 2001, c. 146, § 101, emerg. eff. April 30, 2001. Renumbered from § 1762 of this title by Laws 2001, c. 146, § 258, emerg. eff. April 30, 2001. Amended by Laws 2001, c. 414, § 1, eff. July 1, 2001; Laws 2009, c. 262, § 1, eff. Nov. 1, 2009; Laws 2010, c. 119, § 1, eff. July 1, 2010; Laws 2010, c. 311, § 1, eff. Nov. 1, 2010.

NOTE: Laws 2001, c. 33, § 1 repealed by Laws 2001, c. 414, § 14, eff. July 1, 2001.

§2-5-83. Report on diversification of Oklahoma's agriculture industry - Alternative agricultural products.

A. The Director of the Cooperative Extension Service shall submit to the State Department of Agriculture a report on which products will diversify Oklahoma's agriculture industry on or before January 1 of each year.

B. Alternative agricultural products under the Oklahoma Agricultural Linked Deposit Program shall be determined by the State Board of Agriculture, and shall include, but not be limited to, the products listed in a report submitted by the Director of the Cooperative Extension Service to the State Board of Agriculture on January 1 of each year. The Board shall hold necessary hearings to gain input from the agricultural community to determine if a product which is not included in the report from the Cooperative Extension Service will qualify as an alternative agricultural product.

Added by Laws 1987, c. 182, § 3, eff. Feb. 1, 1988. Amended by Laws 2001, c. 146, § 102, emerg. eff. April 30, 2001. Renumbered from § 1763 of this title by Laws 2001, c. 146, § 258, emerg. eff. April 30, 2001.

§2-5-84. Dissemination of information about program.

The State Treasurer shall disseminate information about the Oklahoma Agricultural Linked Deposit Program to the agriculture industry in this state.

Added by Laws 1987, c. 182, § 4, eff. Feb. 1, 1988. Renumbered from § 1764 of this title by Laws 2001, c. 146, § 258, emerg. eff. April 30, 2001.

§2-5-85. Administration of program - Annual report.

A. The State Treasurer is authorized to administer the Oklahoma Agricultural Linked Deposit Program. The State Treasurer is further authorized to issue guidelines in a manner similar to Article I of the Administrative Procedures Act.

B. The State Treasurer shall submit an annual report outlining the status of the Oklahoma Agricultural Linked Deposit Program to the Governor, the Lieutenant Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

Added by Laws 1987, c. 182, § 5, eff. Feb. 1, 1988. Amended by Laws 2001, c. 146, § 103, emerg. eff. April 30, 2001. Renumbered from § 1765 of this title by Laws 2001, c. 146, § 259, emerg. eff. April 30, 2001.

§2-5-86. Agricultural linked deposit loan packages - Completion by borrower - Acceptance and review by lending institutions - Certification of proposed use - Priority for economic needs of area - Submission of package to State Treasurer - Approval or rejection.

A. The State Treasurer is authorized to disseminate information and provide agricultural linked deposit loan packages to the lending institutions eligible for participation in the Oklahoma Agricultural Linked Deposit Program.

B. The agricultural linked deposit loan package shall be completed by the borrower before being forwarded to the lending institution for consideration. Any technical assistance in completing the agricultural loan package shall be provided by the Oklahoma Department of Agriculture, Food, and Forestry.

C. 1. An eligible lending institution that desires to receive an agricultural linked deposit shall accept and review applications for loans from eligible agricultural businesses. The lending institution shall apply all usual lending standards to determine the credit worthiness of each eligible agricultural business. No single linked deposit for an alternative agricultural product shall exceed One Million Dollars (\$1,000,000.00). No single linked deposit for an at-risk farm or ranch operation or a healthy corner store shall exceed Three Hundred Fifty Thousand Dollars (\$350,000.00).

2. Only one linked deposit loan shall be made and be outstanding at any one time to any farmer. However, the linked deposit loan may be refinanced.

3. No loan shall be made to any officer or director of the lending institution making the loan.

D. An eligible agricultural business shall certify on its loan application that the reduced rate loan will be used exclusively for the purposes outlined in paragraph 6 of Section 5-82 of this title.

E. In considering which eligible agricultural businesses to include in the agricultural linked deposit loan package for reduced rate loans, the eligible lending institution shall give priority to the economic and health needs of the area in which the business is located and other factors it considers appropriate to determine the relative financial need of the business.

F. 1. The eligible lending institution shall forward to the State Treasurer an agricultural linked deposit loan package in the form and manner prescribed and approved by the State Treasurer. The package shall include information regarding the amount of the loan requested by each eligible agricultural business and any other information regarding each business the State Treasurer and the State Board of Agriculture requires. The institution shall certify that each applicant is an eligible agricultural business, and shall, for each business, certify the present borrowing rate applicable to each specific eligible agricultural business.

2. The institution and applicant shall certify that each applicant is an eligible agricultural business and that the values used to calculate the ratios of debt to assets have not been changed or manipulated in order to qualify the applicant for the program.

3. Whoever knowingly makes a false statement concerning a linked deposit loan application shall be prohibited from participating in the linked deposit loan program.

G. Upon receipt of a completed agricultural linked deposit loan package, the State Treasurer may review or audit the information contained in the completed agricultural linked deposit loan package, including, but not limited to, a review or audit of the values used to calculate the ratios of debts to assets as provided by the applicant and the institution. The State Treasurer shall forward the completed agricultural linked deposit loan package to the Board. The Board shall review the agricultural linked deposit loan package to determine if the package qualifies under this program. The Board shall make a recommendation concerning the package within ten (10) business days. The Board shall return the package to the State Treasurer with a written recommendation of approval or rejection. If the Board recommends rejection, the written recommendation shall include reasons for the rejection. The Board shall forward a copy of the rejection notice to the lending institution and the borrower.

The State Treasurer shall keep a chronological list of applications forwarded by the Board for approval or rejection.

Added by Laws 1987, c. 182, § 6, eff. Feb. 1, 1988. Amended by Laws 1989, c. 248, § 2, eff. Nov. 1, 1989; Laws 1994, c. 277, § 15; Laws 1995, c. 88, § 1, eff. July 1, 1995; Laws 2001, c. 146, § 104, emerg. eff. April 30, 2001. Renumbered from § 1766 of this title by Laws 2001, c. 146, § 259, emerg. eff. April 30, 2001. Amended by Laws 2010, c. 119, § 2, eff. July 1, 2010.

§2-5-87. Acceptance or rejection of agricultural linked deposit loan package - Notice - Agricultural linked deposit agreements.

A. The State Treasurer may accept or reject an agricultural linked deposit loan package or any portion of the package, based on the State Treasurer's evaluation of the eligible agricultural businesses included in the package, the amount of individual loans in the package, and the amount of the package. If the State Treasurer recommends rejection, the written recommendation shall include reasons for the rejection in a report to the State Board of Agriculture. The Board shall forward a copy of the rejection notice to the lending institution and the borrower. The borrower may be allowed to bring the application into compliance with the Board and the State Treasurer and resubmit the application. If the State Treasurer rejects the loan because sufficient funds are not available for a linked deposit, then the applications may be considered in the order received when funds are once again available subject to a review by the Board and the lending institution. In evaluating the eligible agricultural businesses, the State Treasurer shall consider the recommendation of the Board and the economic needs of the area where the business is located.

B. The State Treasurer may accept or reject an agricultural linked deposit loan package or any portion of the package, based on the agricultural business's debt-to-asset ratio. The State Treasurer shall have the authority to establish quarterly, based on the availability of funds, a minimum debt-to-asset ratio of not less than forty percent (40%), nor more than fifty-five percent (55%), required to qualify as an at-risk farm or ranch business.

C. Upon acceptance of the agricultural linked deposit loan package or any portion of the package, the State Treasurer shall notify the Board, the lending institution and the borrower. Upon acceptance, the State Treasurer may place certificates of deposit with the eligible lending institution at a rate below current market rates, as determined and calculated by the State Treasurer, or may invest in bonds, notes, debentures, or other obligations or securities issued by the federal farm credit bank with respect to the eligible lending institution at a rate below current market rates, as determined and calculated by the State Treasurer. When necessary, the State Treasurer may place certificates of deposit or may invest

in obligations or securities prior to acceptance of an agricultural linked deposit loan package.

D. 1. The eligible lending institution shall enter into an agricultural linked deposit agreement with the State Treasurer, that shall include requirements necessary to implement the purposes of the Oklahoma Agricultural Linked Deposit Program. The requirements shall include an agreement by the eligible lending institution to lend an amount equal to the agricultural linked deposit to eligible agricultural businesses at an interest rate that reflects a percentage rate reduction below the present borrowing rate applicable to each specific agricultural business in the accepted loan package that is equal to the percentage rate reduction below market rates at which the certificates of deposit that constitute the agricultural linked deposit were placed or at which the investments in bonds, notes, debentures, or other obligations or securities that constitute the agricultural linked deposit were made. The requirements shall also reflect the market conditions prevailing in the eligible lending institution's lending area.

2. The agreement may include a specification of the period of time in which the lending institution is to lend funds upon the placement of a linked deposit, and shall include provisions for the certificates of deposit to be placed or the investment in bonds, notes, debentures, obligations, or securities to be made for any maturity considered appropriate by the State Treasurer not to exceed two (2) years and may be renewed for up to an additional three renewals not to exceed two (2) years each at the option of the State Treasurer. Two additional renewals may be approved by the State Treasurer up to a total duration of participation of twelve (12) years, but new eligible participants and eligible participants who have had linked deposit loans for less than eight (8) years shall have priority over renewals. No renewals will be allowed unless the amount of principal has been reduced by a minimum of five percent (5%) and all interest paid to date from the time of the prior loan or renewal. Interest shall be paid at the times determined by the State Treasurer.

Added by Laws 1987, c. 182, § 7, eff. Feb. 1, 1988. Amended by Laws 1993, c. 86, § 1, eff. July 1, 1993; Laws 1995, c. 88, § 2, eff. July 1, 1995; Laws 1999, c. 4, § 1, eff. July 1, 1999; Laws 2001, c. 146, § 105, emerg. eff. April 30, 2001. Renumbered from § 1767 of this title by Laws 2001, c. 146, § 259, emerg. eff. April 30, 2001.

§2-5-88. Funding of loan - Loan rate - Certification of compliance.

A. 1. Upon the placement of an agricultural linked deposit with an eligible lending institution, the institution shall fund the loan to each approved eligible agricultural business listed in the agricultural linked deposit loan package in accordance with the

agricultural linked deposit agreement between the institution and the State Treasurer.

2. The loan shall be at a rate that reflects a percentage rate reduction below the present borrowing rate applicable to each business that is equal to the percentage rate reduction below market rates at which the certificate of deposits that constitute the agricultural linked deposit were placed or at which the investments in bonds, notes, debentures, or other obligations or securities that constitute the agricultural linked deposit were made.

3. A certification of compliance with this section in the form and manner as prescribed by the State Treasurer shall be required of the eligible lending institution.

B. The State Treasurer shall take any and all steps necessary to implement the Oklahoma Agricultural Linked Deposit Program and monitor compliance of eligible lending institutions and eligible agricultural businesses, including the development of guidelines as necessary.

Added by Laws 1987, c. 182, § 8, eff. Feb. 1, 1988. Amended by Laws 2001, c. 146, § 106, emerg. eff. April 30, 2001. Renumbered from § 1768 of this title by Laws 2001, c. 146, § 259, emerg. eff. April 30, 2001.

§2-5-89. Liability of state for payment of loan.

The State of Oklahoma, the State Department of Agriculture, and the State Treasurer shall not be liable to any eligible lending institution in any manner for payment of the principal or interest on the loan to an eligible agricultural business. Any delay in payments or default on the part of an eligible agricultural business does not in any manner affect the agricultural linked deposit agreement between the eligible lending institution and the State Treasurer.

Added by Laws 1987, c. 182, § 9, eff. Feb. 1, 1988. Amended by Laws 2001, c. 146, § 107, emerg. eff. April 30, 2001. Renumbered from § 1769 of this title by Laws 2001, c. 146, § 259, emerg. eff. April 30, 2001.

§2-5-91. Short title - Implementation.

A. This subarticle shall be known and may be cited as the "Oklahoma International Trade Development Act".

B. The Oklahoma International Trade Development Act shall be implemented by the Oklahoma International Trade Development Council. Added by Laws 1994, c. 357, § 1, eff. July 1, 1994. Amended by Laws 2001, c. 146, § 125, emerg. eff. April 30, 2001. Renumbered from § 3001 of this title by Laws 2001, c. 146, § 262, emerg. eff. April 30, 2001.

§2-5-92. Mission of Council.

A. The mission of the Oklahoma International Trade Development Council is to:

1. Develop and recommend marketing strategies and policies; and
2. Promote the strategies and policies at the request of any Oklahoma agency, authority, and other entity of state government whose fundamental mission is the economic development of Oklahoma through export of agricultural products including, but not limited to raw materials, value added foods, grains, processed feeds, equipment, live animals, semen, embryos and services.

B. The Oklahoma International Trade Development Council shall continue the high level of integrity of development initiatives traditionally employed by Oklahoma, and combine the joint efforts and expertise available across state agencies, institutions and centers. Added by Laws 1994, c. 357, § 2, eff. July 1, 1994. Amended by Laws 1996, c. 72, § 1, emerg. eff. April 9, 1996; Laws 2001, c. 146, § 126, emerg. eff. April 30, 2001. Renumbered from § 3002 of this title by Laws 2001, c. 146, § 262, emerg. eff. April 30, 2001.

§2-5-93. Repealed by Laws 2007, c. 93, § 3, eff. Nov. 1, 2007.

§2-5-94. Powers and duties of Council.

A. The Oklahoma International Trade Development Council shall have the power and duty to:

1. Assist and encourage economic prosperity and employment throughout this state by promoting the expansion of international exports of Oklahoma agricultural products and livestock;
2. Cooperate in conjunction with other organizations, public and private, the objectives of which are the promotion and advancement of export trade activities in the state;
3. Make recommendations regarding the establishment of a source of funding credit guarantees and insurance to support export development, particularly to small- and medium-sized businesses; and
4. Advise exporters and other groups regarding barter agreements between exporters of Oklahoma agricultural, livestock, or manufactured goods and groups in other counties and to facilitate contributions of Oklahoma agricultural and livestock products to areas of the world experiencing food shortages.

B. The Oklahoma International Trade Development Council shall seek advice from the general public, professional associations, academic groups and institutions, and individuals with the knowledge and interest in areas of economic development and planning regarding international export of Oklahoma agricultural products and livestock, and agricultural market development.

C. All state agencies shall cooperate with the Oklahoma International Trade Development Council in providing information and other assistance as requested for the performance of Council duties.

D. The Oklahoma International Trade Development Council shall utilize, seek to enhance, and support the continuing economic analysis and information services provided by the public and private higher education institutions of this state.

Added by Laws 1994, c. 357, § 4, eff. July 1, 1994. Amended by Laws 1996, c. 72, § 3, emerg. eff. April 9, 1996; Laws 2001, c. 146, § 128, emerg. eff. April 30, 2001. Renumbered from § 3004 of this title by Laws 2001, c. 146, § 262, emerg. eff. April 30, 2001.

§2-5-100. Legislative finding and declaration.

The Legislature hereby finds, determines and declares that the production of agricultural food products constitutes a large proportion of Oklahoma's economy and that it is beneficial to the citizens of this state to protect the vitality of the agricultural economy by providing a legal cause of action for producers of perishable agricultural food products to recover damages for the disparagement of any perishable agricultural food product.

Added by Laws 1995, c. 159, § 1, eff. July 1, 1995. Amended by Laws 2001, c. 146, § 129, emerg. eff. April 30, 2001. Renumbered from § 3010 of this title by Laws 2001, c. 146, § 263, emerg. eff. April 30, 2001.

§2-5-101. Definitions.

As used in Sections 129 through 132 of this act unless the context otherwise requires:

1. "Disparagement" means dissemination of information to the public in any manner which casts doubt on the safety of any perishable agricultural food product to the consuming public; and

2. "Perishable agricultural food product" means an agricultural product as defined in Section 17-3 of Title 2 of the Oklahoma Statutes, intended for human consumption which is sold or distributed in a form that will perish or decay beyond marketability within a period of time.

Added by Laws 1995, c. 159, § 2, eff. July 1, 1995. Amended by Laws 2001, c. 146, § 130, emerg. eff. April 30, 2001. Renumbered from § 3011 of this title by Laws 2001, c. 146, § 263, emerg. eff. April 30, 2001.

§2-5-102. Cause of action for damages.

A. Any producer of perishable agricultural food products who suffers damages as a result of another person's disparagement of any such perishable agricultural food product, when the disparagement is based on false information which is not based on reliable scientific facts and scientific data and which the disseminator knows or should have known to be false, may bring an action for damages and for any other appropriate relief in a court of competent jurisdiction.

B. The provisions of this section shall not be construed to limit or prohibit any cause of action which may be available to any producer of perishable agricultural food products pursuant to the Oklahoma Deceptive Trade Practices Act or any state or federal slander or libel law.

Added by Laws 1995, c. 159, § 3, eff. July 1, 1995. Amended by Laws 2001, c. 146, § 131, emerg. eff. April 30, 2001. Renumbered from § 3012 of this title by Laws 2001, c. 146, § 263, emerg. eff. April 30, 2001.

§2-5-103. Short title.

This article shall be known and may be cited as the "Oklahoma Farm Animal, Crop, and Research Facilities Protection Act".

Added by Laws 2003, c.70, § 1, eff. Nov. 1, 2003.

§2-5-104. Definitions.

As used in the Oklahoma Farm Animal, Crop, and Research Facilities Protection Act:

1. "Actor" means a person accused of any of the offenses in this act;

2. "Animal" means any warm or cold-blooded animal or insect which is being used in food or fiber production, agriculture, research, testing, or education, including, but not limited to, hogs, equines, mules, cattle, sheep, ratites, goats, dogs, rabbits, poultry, fish, and bees. The term "animal" shall not include any animal held primarily as a pet;

3. "Animal facility" includes any vehicle, building, structure, pasture, paddock, pond, impoundment, or premises where an animal is kept, handled, housed, exhibited, bred, or offered for sale and any office, building, or structure where records or documents relating to an animal or to animal research, testing, production, or education are maintained;

4. "Commissioner" means the Commissioner of Agriculture;

5. "Consent" means assent in fact, whether express or implied, by the owner or by a person legally authorized to act for the owner which is not:

- a. induced by force, threat, false pretenses, or fraud,
- b. given by a person the actor knows, or should have known, is not legally authorized to act for the owner,
- c. given by a person who by reason of youth, mental disease or defect, or intoxication is known, or should have been known, by the actor to be unable to make reasonable decisions, or
- d. given solely to detect the commission of an offense;

6. "Crop" means any fruits, vegetables, grains, or other products of annual or perennial plants, trees, or shrubs grown for consumption by humans or animals or produced or grown for other

commercial or personal uses. Crop shall not include any plants, trees, or shrubs used to produce or manufacture any illegal drug or other controlled dangerous substance;

7. "Crop facility" means any field, building, greenhouse, structure, or premises where crops are grown or offered for sale and office, building, or structure where records, documents, or electronic data relating to crops or crop research, testing, production, or education are maintained;

8. "Deprive" means unlawfully to withhold from the owner, interfere with the possession of, free, or dispose of an animal or other property;

9. "Owner" means a person who has title to the property, lawful possession of the property, or a greater right to possession of the property than the actor;

10. "Person" means any individual, corporation, association, nonprofit corporation, joint-stock company, firm, trust, partnership, two or more persons having a joint or common interest, or other legal entity;

11. "Possession" means actual care, custody, or management;

12. "Property" means any real or personal property and shall include any document, record, research data, paper, or computer storage medium; and

13. "State" means the State of Oklahoma.

Added by Laws 2003, c. 70, § 2, eff. Nov. 1, 2003.

§2-5-105. Offenses - Applicability of section to actions taken by government agencies.

A. 1. A person commits an offense if, without the consent of the owner, the person acquires or otherwise exercises control over an animal facility, an animal from an animal facility, or other property from an animal facility with the intent to deprive the owner of such facility, animal, or property and to disrupt or damage the enterprise conducted at the animal facility.

2. A person commits an offense if, without the consent of the owner, the person acquires or otherwise exercises control over a crop facility, a crop from a crop facility, or other property from a crop facility with the intent to deprive the owner of such facility, crop, or property and to disrupt or damage the enterprise conducted at the crop facility.

B. 1. A person commits an offense if, without the consent of the owner, the person damages or destroys an animal facility or damages, frees, or destroys any animal or property in or on an animal facility with the intent to disrupt or damage the enterprise conducted at the animal facility and the damage or loss thereto exceeds Five Hundred Dollars (\$500.00); or

2. A person commits an offense if, without the consent of the owner, the person damages or destroys a crop facility or damages or

destroys any crop or property in or on a crop facility with the intent to disrupt or damage the enterprise conducted at the crop facility and the damage or loss thereto exceeds Five Hundred Dollars (\$500.00).

C. 1. A person commits an offense if, without the consent of the owner, the person damages or destroys an animal facility or damages, frees, or destroys any animal or property in or on an animal facility and the damage or loss thereto is Five Hundred Dollars (\$500.00) or less or enters or remains on an animal facility with the intent to disrupt or damage the enterprise conducted at the animal facility, and the person:

- a. had notice that the entry was forbidden,
- b. knew or should have known that the animal facility was or had closed to the public, or
- c. received notice to depart but failed to do so.

2. For the purposes of this paragraph "notice" means:

- a. oral or written communication by the owner or someone with actual or apparent authority to act for the owner,
- b. the presence of fencing or other type of enclosure or barrier designed to exclude intruders or to contain animals, or
- c. a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden,

(1) a person commits an offense if, without the consent of the owner, the person damages or destroys a crop facility or damages or destroys any crop or property in or on a crop facility and the damage or loss thereto is Five Hundred Dollars (\$500.00) or less or enters or remains on a crop facility with the intent to disrupt or damage the enterprise conducted at the animal facility, and the person:

- (a) had notice that the entry was forbidden,
- (b) knew or should have known that the crop facility was or had closed to the public, or
- (c) received notice to depart but failed to do so,

(2) for the purposes of this subdivision "notice" means:

- (a) oral or written communication by the owner or someone with actual or apparent authority to act for the owner, or
- (b) a sign or signs posted on the property or at the entrance to the building, reasonably

likely to come to the attention of intruders,
indicating that entry is forbidden.

D. This section shall not apply to, affect, or otherwise prohibit actions taken by the Oklahoma Department of Agriculture, Food, and Forestry, any other federal, state, or local department or agency, or any official, employee, or agent thereof while in the exercise or performance of any power or duty imposed by law or by rule and regulation.

Added by Laws 2003, c. 70, § 3, eff. July 1, 2003.

§2-5-106. Penalties.

A. A person convicted of any of the offenses defined in subsections A and B of Section 3 of this act shall be guilty of a felony and, upon conviction, shall be punished by a fine not to exceed Ten Thousand Dollars (\$10,000.00) or by imprisonment for a term not to exceed three (3) years, or both.

B. Any person violating subsection C of Section 3 of this act shall be guilty of a misdemeanor.

Added by Laws 2003, c. 70, § 4, eff. Nov. 1, 2003.

§2-5-111. Legislative finding and declaration.

The Legislature finds, determines, and declares that the production of agricultural food products constitutes a large proportion of the state's economy and that it is beneficial to the citizens of this state to enhance the production and further expand the state's economy by effectively supporting and promoting the value-added food processing industry.

Added by Laws 1996, c. 74, § 1, emerg. eff. April 9, 1996. Amended by Laws 2001, c. 146, § 132, emerg. eff. April 30, 2001. Renumbered from § 3021 of this title by Laws 2001, c. 146, § 264, emerg. eff. April 30, 2001.

§2-5-112. Standard of care for producer of livestock - Rebuttable presumption.

A. If an action against a producer of livestock arises as a result of consumption of a meat food product, there shall be a rebuttable presumption that the producer of livestock met the standard of ordinary care in the production of that livestock, so long as the livestock in question were inspected and passed in accordance with the provisions contained in the Oklahoma Meat Inspection Act, Oklahoma Poultry Products Inspection Act, Oklahoma Rabbit and Rabbit Products Inspection Act, and Exotic Livestock and Exotic Livestock Products Inspection Act.

B. In no event shall a producer of livestock in an action arising as a result of consumption of a meat food product be held to a standard higher than that of ordinary care if the livestock in question had been inspected and passed in accordance with the

provisions contained in the Oklahoma Meat Inspection Act, Oklahoma Poultry Products Inspection Act, Oklahoma Rabbit and Rabbit Products Inspection Act, and Exotic Livestock and Exotic Livestock Products Inspection Act.

Added by Laws 2004, c. 544, § 2, eff. July 1, 2004.

§2-5-120. Short title - Urban Gardens Grant Act.

This act shall be known and may be cited as the "Urban Gardens Grant Act".

Added by Laws 2017, c. 188, § 1, eff. Nov. 1, 2017.

§2-5-121. Definitions.

For purposes of the Urban Gardens Grant Act:

1. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry;

2. "Food desert" means a census tract that is designated as both a low-income area and a low access area;

3. "Low access area" means a census tract, as reported in the most recent decennial census published by the United States Bureau of the Census, where at least 500 persons or 33 percent (33%) of their population live more than:

a. one (1) mile from a supermarket or large grocery store in urban areas, and

b. ten (10) miles from a supermarket or large grocery store in rural areas;

4. "Low-income area" means a census tract, as reported in the most recent decennial census published by the United States Bureau of the Census, where at least 20 percent (20%) of the people have income at or below the federal poverty levels for family size, or where median family income for the tract is at or below 80 percent (80%) of the surrounding area's median family income.

Added by Laws 2017, c. 188, § 2, eff. Nov. 1, 2017.

§2-5-122. Urban Gardens Grant Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Agriculture, Food, and Forestry to be designated the "Urban Gardens Grant Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Board of Agriculture from state-appropriated funds, federal funds, donations, grants and contributions from any public or private source and designated for the purpose set forth in this section. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Department of Agriculture, Food, and Forestry for the purpose of administering the Urban Gardens Grant Act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by

law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2017, c. 188, § 3, eff. Nov. 1, 2017. Amended by Laws 2017, c. 328, § 2, eff. July 1, 2017.

§2-5-123. Eligibility for grants.

A. The Department shall administer the provisions of the Urban Gardens Grant Act.

B. The State Board of Agriculture shall promulgate rules and adopt eligibility guidelines necessary to enforce and administer the Urban Gardens Grant Act, including an application process for grants. Entities that receive grants must be located in food deserts and serve residents of the community in which they are located. The applicants shall show that an awarded grant will expand and stimulate economic activity in the low income areas served, as well as provide increased opportunities for the citizens of those low income areas to obtain healthier food options.

C. One-time grants up to Two Hundred Fifty Thousand Dollars (\$250,000.00) shall be provided to entities for the purchase of greenhouses and other materials to establish and operate an urban garden.

D. Entities eligible to apply for the grants are nonprofit community organizations, churches, or other nonprofit organizations.

E. The urban gardens shall grow healthy foods that are to be sold on site or at farmer's markets, produce stands and retailers located within the same community.

Added by Laws 2017, c. 188, § 4, eff. Nov. 1, 2017.

§2-5-201. Short title – Healthy Food Financing Act.

This act shall be known and may be cited as the "Healthy Food Financing Act".

Added by Laws 2017, c. 106, § 1, eff. Nov. 1, 2017.

§2-5-203. Definitions.

As used in the Healthy Food Financing Act:

1. "Board" means the State Board of Agriculture;
2. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry;
3. "Financing" means loans, grants and forgivable loans;
4. "Grocery store" means a for-profit or not-for-profit self-service retail establishment that primarily sells meat, seafood, fruits, vegetables, dairy products, dry groceries, household products and sundries;
5. "Low-income community" means a census tract, as reported in the most recent decennial census published by the United States Bureau of the Census, that has a poverty rate of at least twenty percent (20%) or in which the median family income does not exceed

eighty percent (80%) of the greater of the statewide or metropolitan median family income;

6. "Moderate income community" means a census tract, as reported in the most recent decennial census published by the United States Bureau of the Census, in which the median family income is between eighty-one percent (81%) and ninety-five percent (95%) of the statewide or metropolitan median family income;

7. "Small food retailer" means a small retail outlet less than two thousand five hundred (2,500) square feet, which sells a limited selection of foods and other products; and

8. "Underserved community" means a census tract, as reported in the most recent decennial census published by the United States Bureau of the Census, determined to be an area with low supermarket access by either the United States Department of Agriculture, as identified in the Food Access Research Atlas, or through a methodology that has been adopted for use by another governmental healthy food initiative.

Added by Laws 2017, c. 106, § 2, eff. Nov. 1, 2017.

§2-5-204. Healthy Food Financing Revolving Fund.

There is hereby created in the State Treasury a revolving fund to be designated the "Healthy Food Financing Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Board of Agriculture for the Healthy Food Financing Act from any state-appropriated funds, federal funds, donations, grants, contributions and gifts from any public or private source. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Board of Agriculture for the purposes set forth in the Healthy Food Financing Act. No more than ten percent (10%) of the fund expenditures shall be reserved for administrative and operational costs to manage the program, unless those costs are provided from other budgets or in-kind resources.

Added by Laws 2017, c. 106, § 3, eff. Nov. 1, 2017.

§2-5-205. Administration – Duties – Eligible projects – Financing.

A. The Department shall administer the provisions of the Healthy Food Financing Act.

B. The Department may contract with one or more nonprofit organizations or community development financial institutions to administer this program through a public-private partnership.

C. The Board shall adopt the rules and program eligibility guidelines necessary to enforce and administer the Healthy Food Financing Act, including an application process for financing and grants. Projects that receive financing must be located in an underserved community and primarily serve low or moderate income communities. Projects eligible for financing include:

1. Construction of new grocery stores;
2. Construction of small food retailers; and
3. Grocery store or small food retailer renovations, expansions and infrastructure upgrades that improve the availability and quality of fresh produce and other healthy foods.

D. Financing made available for projects may be expended for the following purposes:

1. Site acquisition and preparation;
2. Construction costs;
3. Equipment and furnishings;
4. Workforce training or security;
5. Pre-development costs, including market studies and appraisals;
6. Energy efficiency measures;
7. Working capital for first-time inventory and start-up costs; and
8. For small food retailers, the acquisition or leasing of refrigeration equipment, display shelving or other one-time capital expenditure, at a cost of less than Five Thousand Dollars (\$5,000.00), for the promotion and display of perishable foods, which shall include a blend of dairy products, fresh produce, fresh meats and poultry and fresh or frozen fish.

E. In determining which projects shall qualify for financing, the Department shall consider:

1. The level of need of access to healthy foods in the area to be served;
2. The degree to which the project requires an investment of public financing to progress, create and impact on access to healthy food;
3. The degree to which the project will have a positive economic impact on the underserved community, including by creating or retaining jobs for local residents;
4. The degree to which the project will participate in state and local health department initiatives to educate consumers on nutrition and promote healthier eating; and
5. Other criteria the Board determines to be consistent with the purposes of this act.

F. Eligible applicants for financing shall include but are not limited to sole proprietorships, partnerships, limited liability companies, corporations, cooperatives, nonprofit organizations, nonprofit community development entities, universities or government entities. Applicants for financing must:

1. Demonstrate the capacity to successfully implement the project and the likelihood that the project will be economically self-sustaining;
2. Demonstrate the ability to repay the debt; and

3. Agree, for a period of at least five (5) years, to comply with the following conditions:

- a. to accept the benefits of The United States Department of Agriculture's Supplemental Nutrition Assistance Program,
- b. to apply to accept The United States Department of Agriculture's Special Supplemental Nutrition Program for Women, Infants, and Children and to accept the benefits, if approved,
- c. to allocate at least thirty percent (30%) of food retail space for the sale of perishable foods, which shall include fresh dairy, produce, meats, poultry and fish,
- d. to comply with all data collection and reporting requirements established by the Board, and
- e. to promote the hiring of local residents.

G. The Board may establish monitoring and compliance mechanisms for projects receiving financing.

H. The Department shall raise matching funds, promote the program statewide, evaluate applicants, underwrite and disburse grants and loans and monitor compliance and impact.

I. The Department shall report annually to the Legislature on the projects funded, the geographic distribution of the projects, the costs of the program, and the outcomes, including the number and type of jobs created and health initiatives associated with the program.
Added by Laws 2017, c. 106, § 4, eff. Nov. 1, 2017.

§2-5-301. Short title.

This subarticle shall be known as the "Oklahoma Organic Food Act".

Added by Laws 1989, c. 317, § 1, operative July 1, 1989. Amended by Laws 2000, c. 243, § 76, emerg. eff. May 24, 2000.

§2-5-302. Purpose.

The purpose of the Oklahoma Organic Food Act is to permit and facilitate the production and marketing of organically grown products in a manner which assures the consumer that the products have been produced and marketed according to consistent standards and practices.

Added by Laws 1989, c. 317, § 2, operative July 1, 1989. Amended by Laws 2000, c. 243, § 77, emerg. eff. May 24, 2000; Laws 2003, c. 242, § 1, emerg. eff. May 23, 2003.

§2-5-303. Definitions.

For purposes of the Oklahoma Organic Food Act:

1. "Certification or certified" means a determination made by a certifying agent that a production or handling operation is in

compliance with this subarticle and rules promulgated pursuant thereto;

2. "Certificate of Organic Production" means an official document issued by an accredited certifying agent to document the certification of a production or handling operation;

3. "Certifying agent" means a person accredited by the Secretary of the United States Department of Agriculture (USDA) to certify a producer or handler for the purposes of the Oklahoma Organic Food Act or the Organic Food Production Act of 1990, as amended and rules promulgated pursuant thereto;

4. "Certified operation" means a crop or livestock production, wild-crop harvesting, or handling operation, or portion of an operation that is certified by an accredited certifying agent as utilizing a system of organic production or handling as described by the Oklahoma Organic Food Act or the Organic Food Production Act of 1990, as amended and the rules promulgated pursuant thereto;

5. "Organic food" means edible consumer products produced, processed, packaged, and handled under a system of organic production;

6. "Organic production" means a production system that is managed in accordance with the Oklahoma Organic Food Act and rules promulgated pursuant thereto or the Organic Food Production Act of 1990, 7 U.S.C., Section 6501 et seq., as amended, to respond to site-specific conditions by integrating cultural, biological, and mechanical practices that foster recycling of resources, promote ecological balance, and conserve biodiversity; and

7. "Producer" means a person who engages in the business of planting, growing, or harvesting food, fiber, feed, and other agricultural-based consumer products.

Added by Laws 1989, c. 317, § 3, operative July 1, 1989. Amended by Laws 2000, c. 243, § 78, emerg. eff. May 24, 2000; Laws 2003, c. 242, § 2, emerg. eff. May 23, 2003.

§2-5-304. Certification program - Administration - Inspection and analysis - Verification documents - Audits of records.

A. The State Board of Agriculture shall establish a program for the certification of organic agricultural products. The Board shall submit this program to the Secretary of the USDA for accreditation as required by the Organic Food Production Act of 1990, as amended, 7 U.S.C., Section 6501 et seq. and rules promulgated pursuant thereto. Upon accreditation, the Board shall act as a certifying agent and issue a Certificate of Organic Production to an operation that has met all requirements of the Oklahoma Organic Food Act and rules promulgated pursuant thereto.

B. The Board shall promulgate appropriate rules for the administration of the program for the certification of organic agricultural products, including:

1. Standards for the analysis, inspection, and certification of the organic agricultural products;
2. Records required of producers and handlers of organic agricultural products;
3. Standards for the certification of producers and handlers of organic agricultural products;
4. Lists of approved and prohibited substances for use in the production and handling of organic agricultural products; and
5. A schedule of fees for initial certification and inspection for continued certification as a producer or handler of organic agricultural products.

C. The Board is authorized to inspect, sample, analyze, examine records, and test any product claimed to be organically grown or distributed within the state to determine if the product is in compliance with the Oklahoma Organic Food Act. The Board has the authority to enter upon public or private property at any reasonable time for the purpose of administering the Oklahoma Organic Food Act. Any certified operation or applicant for a Certificate of Organic Production shall be deemed to have given consent to any authorized agent of the Board to access, enter, inspect, or monitor the property. Refusal to allow access, entry, or inspection shall constitute grounds for the denial, nonrenewal, suspension, or revocation of certification.

D. The Board shall require laboratory analysis of a product claimed to be organically grown if it has reasonable cause to suspect the product may contain a substance not approved for organic production.

E. All new applicants are required to have their soil-growing media and irrigation water, if not municipal, assayed for the presence of pesticide residues.

F. Verification documents that may be required include, but are not limited to, questionnaires, farm plans, affidavits, inspection reports, laboratory assays, and other documents to verify the path taken by an organic food product through post-harvest handling and distribution.

G. The Board may conduct audits of all documents for verification that producers meet the requirements of the Oklahoma Organic Food Act and rules.

H. The Board is authorized to promulgate rules as necessary to administer the Oklahoma Organic Food Act and establish certification standards to carry out the Oklahoma Organic Food Act.

I. The Board is authorized to revoke, suspend, or not renew any license upon satisfactory proof that the permittee has violated any of the provisions of the Oklahoma Organic Food Act or rules promulgated pursuant thereto.

Added by Laws 1989, c. 317, § 4, operative July 1, 1989. Amended by Laws 2000, c. 243, § 79, emerg. eff. May 24, 2000; Laws 2003, c. 242, § 3, emerg. eff. May 23, 2003.

§2-5-305. Repealed by Laws 2003, c. 242, § 10, emerg. eff. May 23, 2003.

§2-5-306. Repealed by Laws 2003, c. 242, § 10, emerg. eff. May 23, 2003.

§2-5-307. False representation as organic product - Stop-sale orders - Fines and penalties.

A. A person shall not sell, offer for sale, label, or advertise an agricultural product with the representation that it is organic if the person knows or has reason to know that it has not been certified pursuant to the Oklahoma Organic Food Act or the Organic Food Production Act of 1990, as amended, 7 U.S.C., Section 6501 et seq. and the rules and regulations promulgated pursuant thereto.

B. The State Board of Agriculture is authorized to issue a written or printed "stop-sale" or "notice of violation" order to the owner or custodian of a product being labeled, advertised or offered or exposed for sale in violation of the Oklahoma Organic Food Act or rules promulgated pursuant thereto.

C. Any person violating the provisions of the Oklahoma Organic Food Act or rules promulgated pursuant thereto may be:

1. Assessed an administrative fine as specified in Section 2-18 of this title; and

2. Deemed guilty of a misdemeanor and, upon conviction thereof, may be punished by a fine of not more than One Thousand Dollars (\$1,000.00).

D. Each day a violation continues shall be a separate offense. Added by Laws 1989, c. 317, § 7, operative July 1, 1989. Amended by Laws 2000, c. 243, § 82, emerg. eff. May 24, 2000; Laws 2003, c. 242, § 4, emerg. eff. May 23, 2003.

§2-5-501. Short title.

This act shall be known and may be cited as the "Oklahoma AgrAbility Project Act".

Added by Laws 2007, c. 181, § 1, eff. Nov. 1, 2007.

§2-5-502. Legislative findings.

The Legislature finds the following:

1. Oklahoma is one of the leading agricultural-producing states in the nation. By being involved in such a diverse and highly mechanized industry, the more than one hundred thirty-five thousand agricultural workers in Oklahoma are susceptible to any one of a

number of work-related injuries and chronic health problems that limit the ability of an individual to safely continue farming;

2. Available estimates indicate that each year in Oklahoma more farm workers sustain fatal injuries than any other work group and often have nonfatal injuries which result in permanent physical disabilities affecting their future income;

3. It is estimated that nationwide more than two hundred thousand farmers, ranchers, and other agricultural workers experience injuries that result in lost work time. Of these injuries, five percent (5%) have serious or permanent results;

4. According to recent survey data, approximately seventeen thousand Oklahoma farmers have permanent disabilities as a result of accidents, health-related ailments, and age.

5. Farm operators and workers are typically highly skilled individuals and the loss of these individuals to a disability negatively impacts the Oklahoma farm economy. The AgrAbility Project established by the United States Department of Agriculture has been successful in helping agricultural workers with a disability to continue to farm. A similar program established by the state, working as part of the existing Oklahoma AgrAbility Project, will assist even more Oklahoma citizens in receiving the necessary assistance and will benefit the state agriculture industry.

Added by Laws 2007, c. 181, § 2, eff. Nov. 1, 2007.

§2-5-503. Definitions.

As used in the Oklahoma AgrAbility Project Act:

1. "Oklahoma AgrAbility Project" means the joint program of the Oklahoma Cooperative Extension Service, ABLE Tech, Langston University, and Oklahoma Assistive Technology Foundation, established in accordance with the AgrAbility Program established by the United States Department of Agriculture; and

2. "Production agriculture" means production for commercial purposes of crops, livestock, and livestock products.

Added by Laws 2007, c. 181, § 3, eff. Nov. 1, 2007.

§2-5-504. Assistance to individuals affected by disability - Services.

A. Subject to available funds, the Oklahoma Cooperative Extension Service shall provide through the existing state program, and contract with other entities that assist disabled farmers, assistance to individuals who are engaged in farming or an agriculture-related activity and who have been affected by disability.

B. Services provided by the Oklahoma AgrAbility Project shall include, but are not limited to:

1. A toll-free information and referral hotline;

2. The establishment of networks with local agricultural and rehabilitation professionals;

3. The coordination of community resources;

4. The establishment of networks with local agricultural and health care professionals to help identify individuals who may be eligible for assistance and to help identify the best method of providing that assistance;

5. The provision of on-the-farm information and technical assistance regarding equipment modification, assistive technology, environmental modifications, and work accommodations;

6. Job restructuring; and

7. The provision of information on, and assistance regarding the development of, alternative jobs.

Added by Laws 2007, c. 181, § 4, eff. Nov. 1, 2007.

§2-5-505. Eligibility.

To be eligible to receive assistance under the Oklahoma AgrAbility Project Act, an individual shall:

1. Be a resident of Oklahoma;

2. Derive a portion of income from production agriculture;

3. Have an impairment that creates a condition of disability; and

4. Meet any additional eligibility requirements set forth by the Oklahoma Cooperative Extension Service.

Added by Laws 2007, c. 181, § 5, eff. Nov. 1, 2007.

§2-5-506. Oklahoma AgrAbility Project Fund.

The Oklahoma AgrAbility Project Fund may be created at some future time as funds become available to provide low-cost direct assistance to eligible clients through agricultural work accommodations and technologies, to build capacity in health care providers through educational offerings, and to direct a volunteer peer support network to assist clients and their families impacted by disability issues.

Added by Laws 2007, c. 181, § 6, eff. Nov. 1, 2007.

§2-5-507. Reports.

If state funds are utilized, unless otherwise required by federal law, the Oklahoma Cooperative Extension Service shall provide the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Oklahoma Senate a copy of any report or other document that it provides to the United States Department of Agriculture concerning the Oklahoma AgrAbility Project.

Added by Laws 2007, c. 181, § 7, eff. Nov. 1, 2007.

§2-6-1. State Veterinarian.

The State Veterinarian shall be the holder of a current license to practice veterinary medicine in Oklahoma, and shall be appointed by the State Board of Agriculture. The Board shall fix the compensation and duties of the State Veterinarian.

Added by Laws 1955, p. 41, art. 6(A), § 1. Amended by Laws 2000, c. 367, § 30, emerg. eff. June 6, 2000.

§2-6-2. Official livestock and poultry disease control agency - Authority of State Veterinarian.

A. The State Board of Agriculture shall be the official livestock and poultry disease control agency of the State of Oklahoma. The Board shall have authority to promulgate and enforce rules governing the handling, sale, and use of vaccines, antigens, and other biological products used in connection with livestock or poultry.

B. In addition to other statutory authority, the State Veterinarian, upon obtaining concurrence of the State Board of Agriculture, may issue emergency orders governing animals in order to protect the citizens and animals of the state from diseases and pests of animals, including the following to:

1. Prohibit or impose conditions on importing animals into the state;
2. Require testing of animals;
3. Require vaccination or other treatment of animals;
4. Prohibit or impose conditions on moving animals within the state;
5. Issue stop movement orders for all livestock in the state to determine the precise location of a foreign animal disease in accordance with foreign animal disease response plans;
6. Govern the disposition of animals; and
7. Impose other measures governing animals to protect the citizens and animals of the state from diseases and pests of animals.

C. Emergency orders issued pursuant to this section shall expire on the date set in the order or upon the elapse of ninety (90) days; however, the State Veterinarian may renew the order for successive ninety-day periods.

D. Any person providing training for the emergency management of livestock or other animals for any circumstance, including, but not limited to, disease, natural disaster, fire or other event, shall obtain approval from the State Veterinarian. The State Veterinarian shall review all curriculum and may require changes to the curriculum prior to approval of the person providing the training.

Added by Laws 1955, p. 42, art. 6(A), § 2, emerg. eff. June 3, 1955. Amended by Laws 2000, c. 367, § 31, emerg. eff. June 6, 2000; Laws 2010, c. 103, § 1, emerg. eff. April 13, 2010; Laws 2019, c. 114, § 1, eff. Nov. 1, 2019.

§2-6-3. Destruction of diseased livestock - Appraisal - Payment.

A. The State Veterinarian may determine that any livestock is infected with or has been exposed to any disease posing a threat to the livestock population of the state.

B. The State Veterinarian may cause the livestock to be destroyed or disposed of in a manner designed to protect the health of other livestock. Destroyed or disposed of livestock shall be appraised by an individual selected by the State Veterinarian and the owner of the livestock. The owner of the livestock destroyed or disposed of shall be entitled to be paid the amount of indemnity approved by the State Board of Agriculture from designated funds. Added by Laws 1955, p. 42, art. 6(A), § 3. Amended by Laws 2000, c. 367, § 32, emerg. eff. June 6, 2000.

§2-6-4. Disinfecting of livestock and places - Cost - Liens.

A. If the State Veterinarian determines that any livestock is infected with or has been exposed to any contagious or infectious disease, the owner or person in control of the livestock may be directed by the State Veterinarian or any authorized agent thereof, to disinfect any livestock or any place the livestock has been in a specific time and manner. If the livestock or place is not disinfected within the time specified, the State Veterinarian or authorized agent shall have the authority to have the livestock or place disinfected. The owner or person in control of the livestock shall be obligated to pay to the State Department of Agriculture all expenses incurred in having the livestock or place disinfected. The State Board of Agriculture shall have the authority to place a lien upon the livestock or place until the expense is paid.

B. The livestock or place shall not be removed or change ownership without permission of the State Veterinarian. When the expense is paid, it shall be deposited in the State Department of Agriculture Revolving Fund.

C. The term "place", as used in this section, shall include but not be limited to any premises or mode of transportation. Added by Laws 1955, p. 42, art. 6(A), § 4, emerg. eff. June 3, 1955. Amended by Laws 1996, c. 138, § 3, emerg. eff. May 1, 1996; Laws 2000, c. 367, § 33, emerg. eff. June 6, 2000.

§2-6-5. Reports of contagious or infectious animal diseases - Release of information.

A. Any report of contagious or infectious animal diseases obtained pursuant to the requirements of Section 698.15 of Title 59 of the Oklahoma Statutes and rules promulgated by the State Board of Agriculture shall not be required to be produced pursuant to the Oklahoma Open Records Act except in such a way that no person or farm can be individually identified, unless otherwise provided for by law.

Specific information shall not be released except under the following circumstances:

1. Release is made upon court order;
2. Release is made in writing, by or with the written consent of the person whose information is being kept confidential;
3. Release is necessary as determined by the State Veterinarian to protect the health and well-being of the general public or domestic animals;
4. Release is made of medical or epidemiological information to health or veterinary professionals, appropriate state agencies or appropriate courts to enforce the provisions of this title and related rules concerning the control and treatment of animal diseases; or
5. Release is made of specific medical or epidemiological information for statistical purposes whether within the State of Oklahoma or throughout the United States, in such a way that no person or farm can be identified.

B. Nothing in this section shall be construed to limit the ability of the State Veterinarian or the State Board of Agriculture from utilizing reported information to the extent deemed necessary and for enforcing any provisions of Title 2 of the Oklahoma Statutes. Added by Laws 2015, c. 70, § 1, eff. Nov. 1, 2015.

§2-6-6. Importing or possessing exotic swine - Misdemeanor - Exceptions.

A. It shall be unlawful and be a misdemeanor in Oklahoma to import or possess exotic swine of the family Suidae. Provided, however, exotic swine species shall not include pot-bellied pigs, teacup pigs and other swine or pigs commonly owned as domestic pets.

B. The State Veterinarian may grant exceptions for importation and possession by a zoo accredited by the Association of Zoos and Aquariums.

Added by Laws 2017, c. 361, § 1, emerg. eff. May 31, 2017.

§2-6-21. Repealed by Laws 2019, c. 109, § 2, eff. Nov. 1, 2019.

§2-6-22. Repealed by Laws 2019, c. 109, § 2, eff. Nov. 1, 2019.

§2-6-23. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-6-24. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-6-25. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-6-26. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-6-27. Feeding garbage to swine.

A. No person shall feed garbage to swine.

B. For the purpose of this section, "garbage" means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of foods, including fish, poultry or animal carcasses or parts.

C. The provisions of this section shall not apply to:

1. Any individual who feeds only household garbage of the individual to the swine of the individual; or

2. Any institution which feeds only its own garbage to swine which are raised for the institution's own use.

Added by Laws 1955, p. 43, art. 6(B), § 7, emerg. eff. June 3, 1955.

Amended by Laws 2000, c. 367, § 36, emerg. eff. June 6, 2000; Laws 2019, c. 109, § 1, eff. Nov. 1, 2019.

§2-6-28. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-6-91. Formulation of control and eradication program.

A program for the control and eradication of brucellosis among livestock of the State of Oklahoma shall be maintained by the State Board of Agriculture. The program shall be composed of a plan or combination of plans adopted or recommended by the United States Department of Agriculture and approved by the Board.

Added by Laws 1955, p. 47, art. 6(E), § 1. Amended by Laws 2000, c. 367, § 37, emerg. eff. June 6, 2000.

§2-6-92. Official test.

A. The official test for brucellosis shall be any serologic or bacteriologic test recognized by and listed in the United States Department of Agriculture Uniform Methods and Rules of Brucellosis Eradication or listed in the Code of Federal Regulations. An official test must be conducted at a laboratory approved for brucellosis testing by the State Board of Agriculture and the United States Department of Agriculture.

B. The blood sample for brucellosis tests shall be drawn by a person approved by the Board. Accredited veterinarians licensed to practice in this state may be granted a certificate by the State Veterinarian to conduct brucellosis tests at approved livestock market laboratories.

C. All blood tests shall be confirmed by samples tested at the laboratory approved for official testing by the Board and the United States Department of Agriculture.

Added by Laws 1955, p. 47, art. 6(E), § 2, emerg. eff. June 3, 1955.
Amended by Laws 1961, p. 5, § 1; Laws 1996, c. 138, § 4, emerg. eff.
May 1, 1996; Laws 2000, c. 367, § 38, emerg. eff. June 6, 2000.

§2-6-93. Blood samples for brucellosis testing - Official identification - Reports.

A. Whenever any blood sample is drawn for the purpose of testing for brucellosis, the person drawing the blood sample shall ensure application of official identification, approved by the State Veterinarian. If official identification is already present, that official identification shall be recorded.

B. The person shall submit with the blood sample a written report to the State Veterinarian. The report shall be signed by the person drawing the sample and shall be on a form prescribed by the State Veterinarian. The report shall show the official identification and descriptive markings of the animal, or herd tattoo, if the tested animal is a registered animal.

C. It shall not be necessary to officially identify any registered animal if the registration tattoo of each animal is shown on the report. If the registration paper is not transferred with the animal, official identification shall be applied.

D. The removal of official identification without prior authorization from the State Veterinarian shall be a violation of the Oklahoma Agricultural Code.

Added by Laws 1955, p. 47, art. 6(E), § 3, emerg. eff. June 3, 1955.
Amended by Laws 1979, c. 87, § 1; Laws 2000, c. 367, § 39, emerg. eff. June 6, 2000; Laws 2019, c. 73, § 1, eff. Nov. 1, 2019.

§2-6-94. Positive reactions - Permanent branding of animal - Tagging - Removal of permanent mark or brand.

A. The owner of exposed animals or reactors shall present the animals for branding or tagging within fifteen (15) days after receiving notice of reaction or exposure. The failure of an owner to comply with the requirements of this subsection shall be deemed a misdemeanor.

B. The removal of any permanent mark or brand, including official identification, from any animal with a reportable disease or those classified as diseased in a herd being depopulated, without prior authorization from the State Veterinarian, shall be deemed a felony.

Added by Laws 1955, p. 47, art. 6(E), § 4, emerg. eff. June 3, 1955.
Amended by Laws 1967, c. 393, § 4, emerg. eff. May 23, 1967; Laws 1974, c. 77, § 1, emerg. eff. April 19, 1974; Laws 1976, c. 107, § 1, emerg. eff. May 12, 1976; Laws 1979, c. 87, § 2; Laws 1996, c. 138, § 5, emerg. eff. May 1, 1996; Laws 1997, c. 133, § 85, eff. July 1, 1999; Laws 2000, c. 367, § 40, emerg. eff. June 6, 2000; Laws 2019, c. 74, § 1, eff. Nov. 1, 2019.

NOTE: Laws 1998, 1st Ex. Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 85 from July 1, 1998, to July 1, 1999.

§2-6-95. Brucellosis Milk Surveillance test.

The Brucellosis Milk Surveillance test made with whole milk or cream and an approved antigen, in a manner and by a person approved by the United States Department of Agriculture and the State Board of Agriculture, may be used to indicate the possibility of the presence of reactors in the herd from which the milk or cream samples were taken. If the test indicates that reactors may be present in a herd, the State Veterinarian shall have the authority to conduct an official test of the herd in order to identify the reactors.

Added by Laws 1955, p. 47, art. 6(E), § 5, emerg. eff. June 3, 1955.

Amended by Laws 1996, c. 138, § 6, emerg. eff. May 1, 1996; Laws 2000, c. 367, § 41, emerg. eff. June 6, 2000.

§2-6-96. Officially vaccinated animals - Identification.

Officially vaccinated animals shall have been inoculated with a vaccine approved by the United States Department of Agriculture and the State Board of Agriculture in a manner and by a person approved by the Board. The inoculation shall be made between ages specified by the Board. Animals vaccinated shall be properly identified with a tattoo and individual identification as prescribed by the Board.

Added by Laws 1955, p. 48, art. 6(E), § 6. Amended by Laws 1980, c. 42, § 1, emerg. eff. March 26, 1980; Laws 2000, c. 367, § 41, emerg. eff. June 6, 2000.

§2-6-97. Biological products containing Brucella organisms.

It shall be unlawful for any person to sell, furnish, give away, or supply any biological product containing Brucella organisms for use in this state except to persons, firms, or agencies approved in writing by the State Veterinarian.

Added by Laws 1955, p. 48, art. 6(E), § 7. Amended by Laws 2000, c. 367, § 43, emerg. eff. June 6, 2000.

§2-6-98. Repealed by Laws 1996, c. 138, § 8, emerg. eff. May 1, 1996.

§2-6-99. Quarantine of livestock infected with brucellosis - Disposition.

All livestock declared to be infected with brucellosis shall be immediately quarantined and shall be disposed of only as prescribed in the approved plan. Prior to movement or change of ownership, plans for disposition of infected animals shall be made and reported to the State Veterinarian.

Added by Laws 1955, p. 48, art. 6(E), § 9. Amended by Laws 2000, c. 367, § 44, emerg. eff. June 6, 2000.

§2-6-100. Brucellosis eradication - Livestock owner requirements - Indemnity payments.

A. The State of Oklahoma is hereby declared brucellosis free. The State Board of Agriculture may reinstitute a program of brucellosis eradication based on the advice of the State Veterinarian and in consultation with the United States Department of Agriculture.

B. Each owner of livestock shall comply with the requirements of a brucellosis plan. A licensed, accredited veterinarian or authorized agent of the Board shall perform all tests on livestock for brucellosis. The owner or person in control of the livestock shall render assistance in restraining the animals as the State Veterinarian or a representative of the State Veterinarian deems necessary. Any owner or caretaker who neglects or refuses to present the livestock for testing or refuses or neglects to assist in restraining them, upon conviction thereof, shall be guilty of a misdemeanor.

C. The State Veterinarian or representative authorized to test the livestock may file a complaint with the district attorney who shall immediately notify the offending party either by certified mail, personal service, posting a notice on the premises, or publication that the person will have an additional ten (10) days to comply with the requirements. If the party fails to comply, the sheriff of the county shall gather the livestock for testing. The owner shall pay all fees and costs incurred in gathering the livestock into the county general fund, to be reappropriated to the county sheriff's office.

D. An indemnity payment in an amount approved by the United States Department of Agriculture and the Board shall be made on each reactor upon proof of slaughter. The Board shall pay any owner of cattle destroyed because of brucellosis an indemnity of not more than Fifty Dollars (\$50.00) for each animal, provided the animal qualifies for an indemnity payment pursuant to official state or federal brucellosis regulations, and the state monies will be in addition to any indemnity payments by the United States Department of Agriculture. The indemnity payments shall be made from funds made available by the United States Department of Agriculture or the Board within the limits of availability. The state indemnity shall not be paid unless the owner of the cattle is in compliance with rules of the Board pertaining to an approved plan.

Added by Laws 1955, p. 48, art. 6(E), § 10, emerg. eff. June 3, 1955. Amended by Laws 1965, c. 470, § 2, emerg. eff. July 14, 1965; Laws 1967, c. 393, § 5, emerg. eff. May 23, 1967; Laws 1981, c. 13, § 1, eff. July 1, 1981; Laws 1983, c. 64, § 1, emerg. eff. April 29, 1983; Laws 1984, c. 19, § 1, emerg. eff. March 20, 1984; Laws 2000, c. 367, § 45, emerg. eff. June 6, 2000; Laws 2019, c. 71, § 1, eff. Nov. 1, 2019.

§2-6-101. Certification of brucellosis-free herds and counties.

The certification of brucellosis-free herds and brucellosis-free counties or areas shall be made as prescribed by the United States Department of Agriculture and approved by the State Veterinarian. Added by Laws 1955, p. 48, art. 6(E), § 11. Amended by Laws 2000, c. 367, § 46, emerg. eff. June 6, 2000.

§2-6-102. Sale of bovine animals or removal from markets - Compliance records.

A. It shall be unlawful for any person, company, firm, corporation, livestock market, concentration yard, or livestock auction, to sell animals or to remove animals from markets unless the animals are in compliance with rules promulgated by the State Board of Agriculture.

B. Animals that are sold prior to testing shall revert to the seller without obligation to the purchasers if the animals are reactors, and all expenses incurred in testing shall be paid by the seller.

C. A record of compliance shall be on a form approved by the State Veterinarian.

Added by Laws 1955, p. 48, art. 6(E), § 12. Amended by Laws 1963, c. 291, § 1; Laws 1967, c. 393, § 6, emerg. eff. May 23, 1967; Laws 1974, c. 46, § 1, emerg. eff. April 13, 1974; Laws 1976, c. 107, § 2, emerg. eff. May 12, 1976; Laws 1979, c. 87, § 3; Laws 1980, c. 42, § 2, emerg. eff. Mar. 26, 1980; Laws 2000, c. 367, § 47, emerg. eff. June 6, 2000.

§2-6-103. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-6-104. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-6-105. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-6-106. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-6-121. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-6-122. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-6-123. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-6-124. Livestock infected or exposed - Order of quarantine - Notice - Waiving of quarantine.

A. Whenever it is determined by the State Board of Agriculture or the State Veterinarian that livestock in any area of the State of Oklahoma is, has been, or is likely to be infected with an infectious or contagious disease, or has been exposed due to importation of livestock from another state or from another area in the State of Oklahoma, or for any other reason, the President of the Board, an authorized agent, or the State Veterinarian shall issue an order of quarantine showing the area and the conditions of the quarantine. Notice of the quarantine order shall be given by one of the following methods:

1. In person by an authorized agent of the Board; or
2. By certified mail; or
3. By publication in a legal newspaper of general circulation in one or more counties in which the areas are situated; or
4. By a sign or signs posted in or around the quarantined area.

B. It shall be illegal to remove any sign or notice posted to a quarantine area or premise and removal shall be only by the State Veterinarian or an authorized agent.

C. The issuance of a quarantine may be waived if the Board or the State Veterinarian enters into a formal cooperative agreement with the affected party that will control and eradicate the disease condition.

Added by Laws 1955, p. 49, art. 6(F), § 4. Amended by Laws 1967, c. 393, § 2, emerg. eff. May 23, 1967; Laws 1992, c. 296, § 3, emerg. eff. May 26, 1992; Laws 2000, c. 367, § 48, emerg. eff. June 6, 2000.

§2-6-125. Moving of livestock in or out of quarantine area - Penalties.

It shall be unlawful and a misdemeanor for any person to remove, change the location of, or to bring into or to take out of any place or area that has been quarantined, any livestock covered by the order of quarantine or to violate any of the conditions of the quarantine. If the aggregate value of the quarantined livestock is in excess of One Thousand Dollars (\$1,000.00), then the person shall, upon conviction, be guilty of a felony.

Added by Laws 1955, p. 49, art. 6(F), § 5, emerg. eff. June 3, 1955. Amended by Laws 1997, c. 133, § 86, eff. July 1, 1999; Laws 2000, c. 367, § 49, emerg. eff. June 6, 2000.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 86 from July 1, 1998, to July 1, 1999.

§2-6-126. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-6-131. Short title.

This act shall be known and may be cited as the "Foreign Animal Diseases Act".

Added by Laws 1996, c. 75, § 1, eff. July 1, 1996.

§2-6-132. Definitions.

As used in the Foreign Animal Diseases Act "foreign animal disease" means any condition of livestock or animals meeting the criteria for a foreign animal disease by the United States Department of Agriculture.

Added by Laws 1996, c. 75, § 2, eff. July 1, 1996. Amended by Laws 2000, c. 367, § 50, emerg. eff. June 6, 2000.

§2-6-133. Eradication and control program.

The State Board of Agriculture shall formulate and maintain a program to assist in the eradication and control of any foreign animal disease. The program shall be implemented only in the event there is evidence that a foreign animal disease may affect any livestock or animals of this state. The program shall be based upon an approved plan composed of a plan or combination of plans adopted or recommended by the State Veterinarian and the United States Department of Agriculture, Animal and Plant Health Inspection Service and approved by the Board.

Added by Laws 1996, c. 75, § 3, eff. July 1, 1996.

§2-6-134. Quarantine.

If the State Board of Agriculture or any authorized agent thereof determines any animal or livestock in any area is or might be infected with any foreign animal disease, a quarantine may be declared by the Board. The quarantine shall show the area quarantined and the conditions of the quarantine. Notice of the quarantine shall be given in person by an authorized agent, by certified mail, by a sign or signs posted in or around the quarantined area, or by publication in a legal newspaper of general circulation in one or more counties in which the area may be situated. It shall be illegal to remove any sign or notice posted to a quarantined area or premises unless removed by the State Veterinarian or an authorized agent.

Added by Laws 1996, c. 75, § 4, eff. July 1, 1996. Amended by Laws 2000, c. 367, § 51, emerg. eff. June 6, 2000.

§2-6-135. Restrictions on biological products.

No biological products, including but not limited to antigens, used to immunize, test, or treat livestock or animals for foreign

animal diseases shall be manufactured, produced, transported, distributed, sold, offered for sale, or possessed in this state unless the biological product has been licensed or permitted by the United States Department of Agriculture, and approved by the State Veterinarian. Biological products shall be administered or used only by those persons approved by the State Veterinarian. Added by Laws 1996, c. 75, § 5, eff. July 1, 1996. Amended by Laws 2000, c. 367, § 52, emerg. eff. June 6, 2000.

§2-6-136. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-6-137. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-6-141. Branding and tagging of tubercular cattle.

All livestock or animals found to be affected with tuberculosis, either by tuberculin test or physical examination by a veterinarian, shall be branded immediately on the tailhead in capital form with the Roman letter "T", at least two (2) inches in width and three (3) inches in length, have a designated metal tag affixed to the left ear, and shall be considered affected with tuberculosis. The owner or owners of tuberculosis-affected animals shall permit any authorized agent or representative of the State Board of Agriculture or the United States Department of Agriculture or accredited veterinarian to brand and tag all affected animals. Added by Laws 1955, p. 50, art. 6(G), § 1, emerg. eff. June 3, 1955. Amended by Laws 1996, c. 138, § 7, emerg. eff. May 1, 1996; Laws 2000, c. 367, § 53, emerg. eff. June 6, 2000.

§2-6-142. Sale or disposition of bovine animals affected with tuberculosis.

It shall be unlawful for any person or the agents or employees of any person to knowingly and intentionally sell, offer for sale, assist in the sale or trade, or dispose or offer to dispose of any animal affected with tuberculosis. Added by Laws 1955, p. 50, art. 6(G), § 2. Amended by Laws 2000, c. 367, § 54, emerg. eff. June 6, 2000.

§2-6-143. Tuberculin tests - Refusal to comply - Quarantine.

The State Veterinarian or any accredited veterinarian directed by the State Veterinarian, as defined by the United States Department of Agriculture, upon reliable information that tuberculosis exists in any animal in the state, may cause the tuberculin test to be applied to the herd or group of animals. Should the owner or owners refuse or neglect to comply with the instructions of the examining veterinarian, the State Veterinarian or the authorized agent of the

State Veterinarian shall quarantine the animals, and the quarantine shall prohibit the movement of any animal or animal products from the premises.

Added by Laws 1955, p. 50, art. 6(G), § 3. Amended by Laws 2000, c. 367, § 55, emerg. eff. June 6, 2000.

§2-6-144. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-6-145. Movement of animals into state - Testing - Owner responsibilities - Assistance from sheriff - Fees.

Animals shall be moved or allowed to move into the State of Oklahoma only in accordance with rules promulgated by the State Board of Agriculture and regulations of the United States Department of Agriculture. It shall be the duty of each owner or person in control of animals in this state to present all animals for testing when notified by the State Veterinarian or the authorized agent of the State Veterinarian. The owner or person in control of the animals shall render any assistance in restraining the animals required by the State Veterinarian or the authorized agent of the State Veterinarian. If the owner or person in control neglects or refuses to present the animals for testing or adequately assist in restraining them, the State Veterinarian or the authorized agent of the State Veterinarian may call upon the sheriff of the county for any necessary assistance. The sheriff shall be paid for the work the same fees as are collected for the execution of a writ of attachment. Unless the fees are paid immediately by the owner or person in control, the sheriff may seize as many of the animals as are necessary for the payment of the fees, and after ten (10) days shall sell the animals to recover the fees and costs accrued.

Added by Laws 1955, p. 50, art. 6(G), § 5. Amended by Laws 2000, c. 367, § 56, emerg. eff. June 6, 2000.

§2-6-146. Retesting.

Retests shall be conducted by the State Veterinarian or authorized agent in all herds in which initial tests have disclosed animals affected with tuberculosis at those intervals prescribed by the State Board of Agriculture for the protection of the work already done and to preserve the standing of this state under the regulations of the United States Department of Agriculture.

Added by Laws 1955, p. 51, art. 6(G), § 6. Amended by Laws 2000, c. 367, § 57, emerg. eff. June 6, 2000.

§2-6-147. Classification - Slaughtering.

All animals classified as reactors for tuberculosis shall be slaughtered within fifteen (15) days following the date of classification.

Added by Laws 1955, p. 51, art. 6(G), § 7. Amended by Laws 2000, c. 367, § 58, emerg. eff. June 6, 2000.

§2-6-148. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-6-149. Exemptions from indemnity payments.

No payment of indemnity from state funds shall be made for any animals found to be tuberculous in the following cases:

1. Unless slaughtered within fifteen (15) days after the date of classification as reactors;

2. After any test, when the premises containing tuberculous animals have not been cleaned and disinfected in accordance with the rules of the State Board of Agriculture and the United States Department of Agriculture;

3. For any animals belonging to a state or federal supported institution;

4. For any animals the owner or claimant knew to be diseased at the time obtained;

5. For any animals unless the entire herd associated with them has been tested;

6. For any animals which have not been within this state at least one (1) year prior to being classified as reactors for tuberculosis; and

7. For any animals moved intrastate or interstate in violation of the laws of this or any other state or any of the rules of the Board or the United States Department of Agriculture.

Added by Laws 1955, p. 51, art. 6(G), § 9. Amended by Laws 2000, c. 367, § 59, emerg. eff. June 6, 2000.

§2-6-150. Definitions.

As used in this Article:

1. "Approved market" means any livestock market, auction, or stockyard which operates under the specific approval of the United States Department of Agriculture, the Oklahoma Agricultural Code, and the rules of the Board;

2. "Approved veterinarian" means a graduate veterinarian licensed and accredited by the state of origin and the United States Department of Agriculture, or an authorized veterinary inspector of the United States Department of Agriculture;

3. "Livestock" means any animal or bird to be imported into the State of Oklahoma for any purpose;

4. "Official health certificate" or "certificate of veterinary inspection" means a legible declaration on an official form from the state of origin or from the United States Department of Agriculture, issued by an approved veterinarian and approved by the chief livestock health official of the state of origin;

An official health certificate or certificate of veterinary inspection shall contain the name and address of the consignor and consignee, age, sex, number, breed of livestock, and sufficient identifying marks and/or tags to positively identify the livestock listed on the health certificate. The health certificate shall also contain a statement by the approved veterinarian that such livestock are free from evidence of all contagious, infectious, or communicable diseases and do not originate from a district of quarantine, infestation or infection. A health certificate shall be void thirty (30) days after the date of its issuance. A copy of the health certificate shall be forwarded to the Oklahoma State Veterinarian, Oklahoma City, Oklahoma; and

5. "Permit" means written permission by the State Board of Agriculture to move certain livestock into or within the State of Oklahoma with or without an official health certificate. A permit shall contain the name and address of the consignor and the consignee, and the number, age, sex, and breed of the livestock. Added by Laws 1967, c. 383, § 1, emerg. eff. May 23, 1967. Amended by Laws 2000, c. 367, § 60, emerg. eff. June 6, 2000.

§2-6-151. Health certificate or permit required for shipment of livestock into state - Responsible parties - Exemptions - Diseased livestock.

A. 1. It shall be unlawful to ship, transport, or cause to be shipped or transported any livestock into the State of Oklahoma, unless accompanied by an official health certificate, permit, or both, which shall be in the possession of the driver of the vehicle or person in charge of the livestock.

2. 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 health certificates, permits, and the movement of livestock into this state.

3. An official health certificate or permit shall not be required for any livestock shipped directly from a farm of origin, with no diversion in route, to an approved market or slaughtering establishment operating under state or federal supervision, if a waybill, bill of lading, or certificate of ownership accompanies the shipment showing the consignor and the point of origin of the shipment, and the approved market or slaughtering establishment to which the livestock are shipped.

B. 1. It shall be unlawful for any livestock that are affected with or that have been exposed to any infectious, contagious, or communicable disease or which originate from a quarantined area to be shipped or in any manner transported or moved into or through the state until written permission for entry, transportation, or movement

is obtained from the State Board of Agriculture or its authorized agent.

2. A written permit shall not be required for diseased animals which are approved for interstate shipment under specified restrictions by the United States Department of Agriculture. Added by Laws 1967, c. 383, § 2, emerg. eff. May 23, 1967. Amended by Laws 2000, c. 367, § 61, emerg. eff. June 6, 2000.

§2-6-152. Inspection and quarantine - Condemnation - Quarantine release.

A. 1. Any authorized agent of the State Board of Agriculture, or any law enforcement officer of the State of Oklahoma or any subdivision, shall have the authority to stop the shipment or movement of any livestock within this state, and the agent or officer may hold the livestock under quarantine at the owner's risk and expense for observation, tests, vaccination, dipping, treatment, inspection, or for any other purposes.

2. The agent or officer may order any and all livestock unloaded or handled in any manner when the agent or officer finds it necessary to effect a more complete and thorough inspection or examination.

3. If the livestock are found to be affected with any infectious or communicable disease or condition which poses a threat to the public health, safety, or welfare, the Board or State Veterinarian may condemn the livestock and order them slaughtered immediately. The agent, Board, or State Veterinarian shall not be liable for the loss in value of any livestock stopped, quarantined, condemned, or slaughtered under the provisions of this subarticle.

B. No livestock held under quarantine shall be released from quarantine until a written release, signed by an authorized agent has been executed.

Added by Laws 1967, c. 383, § 3, emerg. eff. May 23, 1967. Amended by Laws 2000, c. 367, § 62, emerg. eff. June 6, 2000.

§2-6-153. Documentation to accompany shipments - Information for exhibition.

A. In order to assist in the enforcement of this law and to aid in determining the point of origin of livestock transported within the State of Oklahoma, all livestock shall be accompanied by a health certificate, a bill of sale, or acceptable proof of ownership of the livestock. All such documents shall disclose the name of the owner, the name of the consignee, the point of origin, the point of destination, and a description of the livestock sufficient to identify them for any purpose.

B. The importation requirements in this subarticle are applicable to any livestock shipped into or transported within this state for exhibition purposes.

Added by Laws 1967, c. 383, § 4, emerg. eff. May 23, 1967. Amended by Laws 2000, c. 367, § 63, emerg. eff. June 6, 2000.

§2-6-154. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-6-155. Penalties.

Any person violating the provisions of subsections (a) and (b) of Section 6-151 of this title relating to the importation and transportation of livestock, is guilty of a felony and subject to a maximum punishment of two (2) years in prison or a Two Thousand Dollar (\$2,000.00) fine, or both. Any person violating any of the other provisions of this section, relating to the importation and transportation of livestock, is guilty of a misdemeanor and subject to a maximum punishment of six (6) months in the county jail or a Five Hundred Dollar (\$500.00) fine, or both. Each animal brought into the state in violation of any of the provisions of this section shall constitute a separate and distinct violation.

Added by Laws 1967, c. 383, § 6, emerg. eff. May 23, 1967. Amended by Laws 1997, c. 133, § 87, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 25, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 87 from July 1, 1998, to July 1, 1999.

§2-6-156. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-6-181. Designation.

This act shall be designated as the "Oklahoma Meat Inspection Act."

Laws 1968, c. 63, § 1, emerg. eff. March 19, 1968.

§2-6-182. Definitions.

As used in the Oklahoma Meat Inspection Act, except as otherwise specified, the following terms shall have the meanings stated below:

(a) The term "Board" means the State Board of Agriculture, or its delegate.

(b) The term "firm" means any partnership, association, or other unincorporated business organization.

(c) The term "meat broker" means any person, firm or corporation engaged in the business of buying or selling carcasses, parts of carcasses, meat, or meat food products of cattle, bison, sheep, swine, goats, horses, mules, or other equines on commission, or otherwise negotiating purchases or sales of such articles other than for his own account or as an employee of another person, firm, or corporation.

(d) The term "renderer" means any person, firm, or corporation engaged in the business of rendering carcasses, or parts or products of the carcasses, of cattle, bison, sheep, swine, goats, horses, mules, or other equines, except rendering conducted under inspection under Section 6-181 et seq. of this title.

(e) The term "animal food manufacturer" means any person, firm, or corporation engaged in the business of manufacturing or processing animal food derived wholly or in part from carcasses, or parts or products of the carcasses, of cattle, bison, sheep, swine, goats, horses, mules, or other equines.

(f) The term "intrastate commerce" means commerce within this state.

(g) The term "meat food product" means any product capable of use as human food which is made wholly or in part from any meat or other portion of the carcass of any cattle, bison, sheep, swine, goats, horses, mules, or other equines, excepting products which contain meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry, and which are exempted from definition as a meat food product by the Board under such conditions as it may prescribe to assure that the meat or other portions of such carcasses contained in such product are not adulterated and that such products are not represented as meat food products.

(h) The term "capable of use as human food" shall apply to any carcass, or part or product of a carcass, of any animal, unless it is denatured or otherwise identified as required by regulations prescribed by the Board to deter its use as human food, or it is naturally inedible by humans.

(i) The term "prepared" means slaughtered, canned, salted, rendered, boned, cut up, or otherwise manufactured or processed.

(j) The term "adulterated" shall apply to any carcass, part thereof, meat or meat food product under one or more of the following circumstances:

(1) if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(2) (A) if it bears or contains (by reason of administration of any substance to the live animal or otherwise) any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the Board, make such article unfit for human food;

(B) if it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of Section 408 of the Federal Food, Drug, and Cosmetic Act;

(C) if it bears or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act;

(D) if it bears or contains any color additive which is unsafe within the meaning of Section 706 of the Federal Food, Drug, and Cosmetic Act: Provided, that an article which is not adulterated under clause (B), (C), or (D) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on such article is prohibited by regulations of the Board in establishments at which inspection is maintained under Section 6-181 et seq. of this title;

(3) if it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

(4) if it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(5) if it is, in whole or in part, the product of an animal which has died otherwise than by slaughter;

(6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(7) if it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to Section 409 of the Federal Food, Drug, and Cosmetic Act;

(8) if any valuable constituent has been, in whole or in part, omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part, therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is; or

(9) if it is margarine containing animal fat and any of the raw material used therein consisted, in whole or in part, of any filthy, putrid, or decomposed substance.

(k) The term "misbranded" shall apply to any carcass, part thereof, meat or meat food product under one or more of the following circumstances:

(1) if its labeling is false or misleading in any particular;

(2) if it is offered for sale under the name of another food;

(3) if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation", and, immediately thereafter, the name of the food imitated;

(4) if its container is so made, formed, or filled as to be misleading;

(5) if in a package or other container unless it bears a label showing (A) the name and place of business of the manufacturer, packer, or distributor; and (B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: Provided, that, under clause (B) of this subparagraph (5), reasonable variations may be permitted, and exemptions as to small packages may be established, by regulations prescribed by the Board;

(6) if any word, statement, or other information required by or under authority of this act to appear on the label or other labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(7) if it purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by regulations of the Board under Section 6-187 of this title unless (A) it conforms to such definition and standard, and (B) its label bears the name of the food specified in the definition and standard and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food;

(8) if it purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by regulations of the Board under Section 6-187 of this title, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;

(9) if it is not subject to the provisions of subparagraph (7), unless its label bears (A) the common or usual name of the food, if any there be, and (B) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings may, when authorized by the Board, be designated as spices, flavorings, and colorings without naming each: Provided, that, to the extent that compliance with the requirements of clause (B) of this subparagraph (9) is impracticable, or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Board;

(10) if it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Board, after consultation with the Secretary of Agriculture of the United States,

determines to be, and by regulations prescribes as, necessary in order fully to inform purchasers as to its value for such uses;

(11) if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact: Provided, that, to the extent that compliance with the requirements of this subparagraph (11) is impracticable, exemptions shall be established by regulations promulgated by the Board; or

(12) if it fails to bear, directly thereon or on its container, as the Board may by regulations prescribe, the inspection legend and, unrestricted by any of the foregoing, such other information as the Board may require in such regulations to assure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition.

(l) The term "label" means a display of written, printed, or graphic matter upon the immediate container (not including package liners) of any article.

(m) The term "labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.

(n) The term "Federal Meat Inspection Act" means the act so entitled approved March 4, 1907 (34 Stat. 1260), as amended by the Wholesome Meat Act (8 Stat. 584).

(o) The term "Federal Food, Drug, and Cosmetic Act" means the act so entitled, approved June 25, 1938 (52 Stat. 1040), and acts amendatory thereof or supplementary thereto.

(p) The term "pesticide chemical", "food additive", "color additive", and "raw agricultural commodity" shall have the same meanings for purposes of this act as under the Federal Food, Drug, and Cosmetic Act.

(q) The term "official mark" means the official inspection legend or any other symbol prescribed by regulations of the Board to identify the status of any article or animal under this act.

(r) The term "official inspection legend" means any symbol prescribed by regulations of the Board showing that an article was inspected and passed in accordance with this act.

(s) The term "official certificate" means any certificate prescribed by regulations of the Board for issuance by an inspector or other person performing official functions under this act.

(t) The term "official device" means any device prescribed or authorized by the Board for use in applying any official mark. Added by Laws 1968, c. 63, § 2, emerg. eff. March 19, 1968. Amended by Laws 1985, c. 38, § 1, eff. Nov. 1, 1985; Laws 2013, c. 2, § 1, eff. Nov. 1, 2013.

§2-6-183. Inspection of animals to be slaughtered - Setting apart of animals - Methods of slaughter - Examination and inspection of method of slaughter.

A. For the purpose of preventing the use in intrastate commerce, as hereinafter provided, of meat and meat food products which are adulterated, the Board shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of all cattle, bison, sheep, swine, goats, horses, mules and other equines before they shall be allowed to enter into any slaughtering, packing, meat-canning, rendering or similar establishment in this state in which slaughtering and preparation of meat and meat food products of such animals are conducted for intrastate commerce; and all cattle, bison, sheep, swine, goats, horses, mules and other equines found on such inspection to show symptoms of disease shall be set apart and slaughtered separately from all other cattle, bison, sheep, swine, goats, horses, mules or other equines, and when so slaughtered, the carcasses of said cattle, bison, sheep, swine, goats, horses, mules or other equines shall be subject to a careful examination and inspection, all as provided by the rules and regulations to be prescribed by the Board as herein provided for.

B. For the purpose of preventing the inhumane slaughter of livestock, the Board shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which cattle, bison, sheep, swine, goats, horses, mules and other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected by law. The Board may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment if the Board finds that any cattle, bison, sheep, swine, goats, horses, mules or other equines have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with this section until the establishment furnishes assurances satisfactory to the Board that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such method.

C. Either of the following two methods of slaughtering livestock and handling livestock in connection with slaughter are hereby found to be humane:

1. In the case of cattle, bison, sheep, swine, goats, horses, mules or other equines, the animals are rendered insensible to pain by a single blow or gunshot or an electrical, chemical or other means that is rapid and effective, before being shackled, hoisted, thrown, cast or cut; or

2. By slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous

severance of the carotid arteries with a sharp instrument and handling in connection with such slaughtering.

Added by Laws 1968, c. 63, § 3, emerg. eff. March 19, 1968. Amended by Laws 1980, c. 35, § 1, eff. Oct. 1, 1980; Laws 1985, c. 38, § 2, eff. Nov. 1, 1985.

§2-6-184. Postmortem inspection - Marking or stamping.

For the purposes hereinbefore set forth the Board shall cause to be made by inspectors appointed for that purpose, as hereinafter provided, a postmortem examination and inspection of the carcasses and parts thereof of all cattle, bison, sheep, swine, goats, horses, mules, and other equines, capable of use as human food, to be prepared at any slaughtering, meat-canning, salting, packing, rendering, or similar establishment in this state in which such articles are prepared for intrastate commerce; and the carcasses and parts thereof of all such animals found to be not adulterated shall be marked, stamped, tagged, or labeled, as "Inspected and Passed"; and said inspectors shall label, mark, stamp, or tag, as "Inspected and Condemned", all carcasses and parts thereof of animals found to be adulterated; and all carcasses and parts thereof thus inspected and condemned shall be destroyed for food purposes by the said establishment in the presence of an inspector, and the Board may remove inspectors from any such establishment which fails to so destroy any such condemned carcass or part thereof, and said inspectors, after said first inspection, shall, when they deem it necessary, reinspect said carcasses or parts thereof to determine whether, since the first inspection, the same have become adulterated and if any carcass or any part thereof shall, upon examination and inspection subsequent to the first examination and inspection, be found to be adulterated, it shall be destroyed for food purposes by the said establishment in the presence of an inspector, and the Board may remove inspectors from any establishment which fails to destroy any such condemned carcass or part thereof.

Amended by Laws 1985, c. 38, § 2, eff. Nov. 1, 1985.

§2-6-185. Inspection - Limitation of entry.

A. The Oklahoma Meat Inspection Act shall apply to:

1. All carcasses or parts of carcasses of cattle, bison, sheep, swine, goats, horses, mules, and other equines or the meat or meat products thereof, capable of use as human food, which may be brought into any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, where inspection under the Oklahoma Meat Inspection Act is maintained. Examination and inspection shall be made before the carcasses or parts thereof shall be allowed to enter into any department wherein the same are to be treated and prepared for meat food products; and

2. All such products which, after having been issued from any such slaughtering, meat-canning, salting, packing, rendering, or similar establishment, shall be returned to the same or to any similar establishment where such inspection is maintained.

B. The Board may limit the entry of carcasses, parts of carcasses, meat and meat food products, and other materials into any establishment at which inspection under the Oklahoma Meat inspection Act is maintained, under the conditions as it may prescribe to assure that allowing the entry of such articles into such inspected establishments will be consistent with the purposes of the Oklahoma Meat Inspection Act.

Added by Laws 1968, c. 63, § 5, emerg. eff. March 19, 1968. Amended by Laws 1985, c. 38, § 4, eff. Nov. 1, 1985; Laws 2000, c. 367, § 64, emerg. eff. June 6, 2000.

§2-6-186. Meat food products - Inspection - Access - Marking or stamping.

For the purposes hereinbefore set forth, the Board shall cause to be made by inspectors appointed for that purpose an examination and inspection of all meat food products prepared in any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, where such articles are prepared for intrastate commerce and for the purposes of any examination and inspection said inspectors shall have access at all times, by day or night, whether the establishment be operated or not, to every part of said establishment; and said inspectors shall mark, stamp, tag, or label as "Oklahoma Inspected and Passed" all such products found to be not adulterated; and said inspectors shall label, mark, stamp, or tag as "Oklahoma Inspected and Condemned" all such products found adulterated, and all such condemned meat food products shall be destroyed for food purposes, as hereinbefore provided, and the Board may remove inspectors from any establishment which fails to so destroy such condemned meat food products.

Laws 1968, c. 63, § 7, emerg. eff. March 19, 1968.

§2-6-187. Labeling of cans, receptacles or coverings - Standards - False or misleading markings - Hearings and appeals.

(a) When any meat or meat food product prepared for intrastate commerce which has been inspected as hereinbefore provided and marked "Oklahoma Inspected and Passed" shall be placed or packed in any can, pot, tin, canvas, or other receptacle or covering in any establishment where inspection under the provisions of this act is maintained, the person, firm, or corporation preparing said product shall cause a label to be attached to said can, pot, tin, canvas, or other receptable or covering, under supervision of an inspector, which label shall state that the contents thereof have been "Oklahoma Inspected and Passed" under the provisions of this act, and no

inspection and examination of meat or meat food products deposited or inclosed in cans, tins, pots, canvas, or other receptable or covering in any establishment where inspection under the provisions of this act is maintained shall be deemed to be complete until such meat or meat food products have been sealed or inclosed in said can, tin, pot, canvas, or other receptacle or covering under the supervision of an inspector.

(b) All carcasses, parts of carcasses, meat and meat food products inspected at any establishment under the authority of this act and found to be not adulterated, shall at the time they leave the establishment bear, in distinctly legible form, directly thereon or on their containers, as the Board may require, the information required under paragraph (k) of Section 1 of this act.

(c) The Board, whenever it determines such action is necessary for the protection of the public, may prescribe: (1) the styles and sizes of type to be used with respect to material required to be incorporated in labeling to avoid false or misleading labeling of any articles or animals subject to Sections 1 through 20 of this act; (2) definitions and standards of identity or composition for articles subject to Sections 1 through 16 and standards of fill of container for such articles not inconsistent with any such standards established under the Federal Food, Drug, and Cosmetic Act, or under the Federal Meat Inspection Act, and there shall be consultation between the Board and the Secretary of Agriculture of the United States prior to the issuance of such standards to avoid inconsistency between such standards and the Federal standards.

(d) No article subject to Sections 1 through 16 of this act shall be sold or offered for sale by any person, firm, or corporation, in intrastate commerce, under any name or other marking or labeling which is false or misleading, or in any container of a misleading form or size, but established trade names and other marking and labeling and containers which are not false or misleading and which are approved by the Board are permitted.

(e) If the Board has reason to believe that any marking or labeling or the size or form of any container in use or proposed for use with respect to any article subject to Sections 1 through 16 is false or misleading in any particular, it may direct that such use be withheld, unless the marking, labeling, or container is modified in such manner as it may prescribe so that it will not be false or misleading. If the person, firm, or corporation using or proposing to use the marking, labeling or container does not accept the determination of the Board, such person, firm, or corporation may request a hearing, but the use of the marking, labeling, or container shall, if the Board so directs, be withheld pending hearing and final determination by the Board. Any such determination by the Board shall be conclusive unless, within thirty (30) days after receipt of notice of such final determination, the person, firm, or corporation

adversely affected thereby appeals to the District Court of Oklahoma County.

Added by Laws 1968, c. 63, § 7, emerg. eff. March 19, 1968.

§2-6-188. Establishments - Inspections - Sanitary conditions.

The Board shall cause to be made, by competent inspectors, such inspection of all slaughtering, meat-canning, salting, packing, rendering, or similar establishments in which cattle, bison, sheep, swine, goats, horses, mules, and other equines are slaughtered and the meat and meat food products thereof are prepared for intrastate commerce as may be necessary to inform itself concerning the sanitary conditions of the same and to prescribe the rules and regulations of sanitation under which such establishments shall be maintained; and where the sanitary conditions of any such establishment are such that the meat or meat food products are rendered adulterated, it shall refuse to allow said meat or meat food products to be labeled, marked, stamped, or tagged as "Oklahoma Inspected and Passed", and the Board may remove inspectors from any establishment which fails to maintain said establishment in a sanitary manner.

Amended by Laws 1985, c. 38, § 5, eff. Nov. 1, 1985.

§2-6-189. Nighttime inspections.

The Board shall cause an examination and inspection of all cattle, bison, sheep, swine, goats, horses, mules, and other equines, and the food products thereof, slaughtered and prepared in the establishments hereinbefore described for the purposes of intrastate commerce to be made during the nighttime as well as during the daytime when the slaughtering of said cattle, bison, sheep, swine, goats, horses, mules, and other equines, or the preparation of said food products, is conducted during the nighttime.

Amended by Laws 1985, c. 38, § 6, eff. Nov. 1, 1985.

§2-6-190. Compliance with act - Acts prohibited.

No person, firm or corporation shall, with respect to any cattle, bison, sheep, swine, goats, horses, mules or other equines, or any carcasses, parts of carcasses, meat or meat food products of any such animals:

(a) Slaughter any such animals or prepare any such articles which are capable of use as human food at any establishment preparing such articles for intrastate commerce, except in compliance with the requirements of this act;

(b) Slaughter or handle in connection with slaughter any such animals in any manner not in accordance with Section 6-183 of this title;

(c) Sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce, (1) any such articles which (A) are capable of use as human food, and (B) are adulterated

or misbranded at the time of such sale, transportation, offer for sale or transportation, or receipt for transportation; or (2) any articles required to be inspected under Sections 6-181 through 6-196 of this title unless they have been so inspected and passed;

(d) Do, with respect to any such articles which are capable of use as human food, any act while they are being transported in intrastate commerce or held for sale after such transportation, which is intended to cause or has the effect of causing such articles to be adulterated or misbranded.

Amended by Laws 1985, c. 38, § 7, eff. Nov. 1, 1985.

§2-6-191. Forging of official marks or certificates.

(a) No brand manufacturer, printer, or other person, firm, or corporation shall cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the Board.

(b) No person, firm, or corporation shall

(1) forge any official device, mark, or certificate;

(2) without authorization from the Board use any official device, mark, or certificate, or simulation thereof, or alter, detach, deface, or destroy any official device, mark, or certificate;

(3) contrary to the regulations prescribed by the Board, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

(4) knowingly possess, without promptly notifying the Board or its representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label or any carcass of any animal, or part or product thereof, bearing any counterfeit, simulated, forged, or improperly altered official mark;

(5) knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the Board; or

(6) knowingly represent that any article has been inspected and passed, or exempted, under this act, when, in fact, it has, respectively, not been so inspected and passed, or exempted.

Laws 1968, c. 63, § 11, emerg. eff. March 19, 1968.

§2-6-192. Horse meat.

A. It shall be unlawful for any person to sell, offer or exhibit for sale, or have in his or her possession with intent to sell, any quantity of horsemeat for human consumption in Oklahoma.

B. It shall be unlawful for any person to transfer the possession of any horsemeat to any other person when the person so transferring knows, or in the exercise of a reasonable discretion should have known, that the person receiving the horsemeat intends to

sell it in this state, offer it for sale in this state, exhibit it for sale in this state, or keep it in his possession with intent to sell it for human consumption in this state.

C. No person, firm, or corporation shall sell in this state, transport, offer for sale in this state or transportation, or receive for transportation, in intrastate commerce, any carcasses of horses, mules, or other equines or parts of such carcasses, or the meat or meat food products thereof, unless they are plainly and conspicuously marked or labeled or otherwise identified as required by regulations prescribed by the Board to show the kinds of animals from which they were derived. When required by the Board with respect to establishments at which inspection is maintained under Section 6-181 et seq. of this title, such animals and their carcasses, parts thereof, meat and meat food products shall be prepared in establishments separate from those in which cattle, sheep, swine, or goats are slaughtered or their carcasses, parts thereof, meat or meat food products are prepared.

D. The State Commissioner of Health or his or her authorized representative shall have free access to any transport vehicle, factory, warehouse or establishment in which horsemeat or feed suspected of containing horsemeat is transported, manufactured, processed, packed, sold, or prepared for serving to secure, after payment or offer to pay therefor, samples or specimens of such products found therein, to examine any and all sales records, shipping records relating to foods or horsemeat, to embargo any article of food or horsemeat suspected of being in violation of law, and to determine whether any law is being violated.

E. For the purpose of this section:

1. The term "horsemeat" shall mean the meat or flesh of any animal of the equine genus;

2. The term "package" or "container" shall mean the original, properly labeled package or container in which the horsemeat was packaged by the packer or processor at the point of origin; and

3. The term "properly labeled" shall mean a display of written, printed or graphic matter upon the outside package or container, or wrapper if there be one, stating the name and address of the original packer or processor, and in addition thereto shall include the word "horsemeat". All letters and words of the label shall be legible and of such size as to be easily read and understood by the ordinary individual under customary conditions of purchase and use.

Added by Laws 1968, c. 63, § 12, emerg. eff. March 19, 1968. Amended by Laws 2013, c. 2, § 2, eff. Nov. 1, 2013.

§2-6-193. Appointment of inspectors - Rules and regulations.

The Board shall appoint from time to time inspectors to make examination and inspection of all cattle, sheep, swine, goats, horses, mules, and other equines, the inspection of which is hereby

provided for, and of all carcasses and parts thereof, and of all meat and meat food products thereof, and of the sanitary conditions of all establishments in which such meat and meat food products hereinbefore described are prepared; and said inspectors shall refuse to stamp, mark, tag or label any carcass or any part thereof, or meat food product therefrom, prepared in any establishment hereinbefore mentioned, until the same shall have actually been inspected and found to be not adulterated; and shall perform such other duties as are provided by this act and by the rules and regulations to be prescribed by said Board and said Board shall, from time to time, make such rules and regulations as are necessary for the efficient execution of the provisions of this act, and all inspections and examinations made under this act shall be such and made in such manner as described in the rules and regulations prescribed by said Board not inconsistent with the provisions of this act.
Laws 1968, c. 63, § 13, emerg. eff. March 19, 1968.

§2-6-194. Bribery - Penalties.

Any person, firm, or corporation, or any agent or employee of any person, firm, or corporation, who shall give, pay, or offer, directly or indirectly, to any inspector, deputy inspector, chief inspector, or any other officer or employee of this state authorized to perform any of the duties prescribed by this act or by the rules of the Board, any money or other thing of value, with intent to influence said inspector, deputy inspector, chief inspector, or other officer or employee of this state in the discharge of any duty herein provided for, shall be deemed guilty of a felony, upon conviction thereof, and shall be punished by a fine not less than Five Thousand Dollars (\$5,000.00) nor more than Ten Thousand Dollars (\$10,000.00) and by imprisonment not less than one (1) year nor more than three (3) years; and any inspector, deputy inspector, chief inspector, or other officer or employee of this state authorized to perform any of the duties prescribed by this act who shall accept any money, gift, or other thing of value from any person, firm, or corporation, or officers, agents, or employees thereof, given with intent to influence his official action, or who shall receive or accept from any person, firm, or corporation engaged in intrastate commerce any gift, money, or other thing of value given with any purpose or intent whatsoever, shall be deemed guilty of a felony and shall, upon conviction thereof, be summarily discharged from office and shall be punished by a fine not less than One Thousand Dollars (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00) and by imprisonment not less than one (1) year nor more than three (3) years.
Added by Laws 1968, c. 63, § 14, emerg. eff. March 19, 1968. Amended by Laws 1997, c. 133, § 89, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 27, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 89 from July 1, 1998, to July 1, 1999.

§2-6-195. Exemptions.

A. The provisions of Sections 6-181 through 6-196 of this title requiring inspection of the slaughter of animals and the preparation of the carcasses, parts thereof, meat and meat food products at establishments conducting such operations shall not apply:

1. To the slaughtering of animals of a person's own raising, and the preparation and transportation in intrastate commerce of the carcasses, parts thereof, meat and meat food products of such animals exclusively for use by a person and members of a person's household and nonpaying guests and employees; nor

2. To the custom slaughter by any person, firm, or corporation of cattle, bison, sheep, swine or goats delivered by the owner thereof for such slaughter, and the preparation by such slaughterer and transportation in intrastate commerce of the carcasses, parts thereof, meat and meat food products of such animals, exclusively for use in the household of such owner, by the owner and members of the owner's household and nonpaying guests and employees.

B. The provisions of this act requiring inspection of the slaughter of animals and the preparation of carcasses, parts thereof, meat and meat food products shall not apply to operations of types traditionally and usually conducted at retail stores and restaurants, when conducted at any retail store or restaurant or similar retail type establishment for sale in normal retail quantities or service of such articles to consumers at such establishments.

C. The slaughter of animals and preparation of articles referred to in paragraph 2 of subsection A and subsection B of this section shall be conducted in accordance with such sanitary conditions as the Board may by regulations prescribe. Violation of any such regulation is prohibited.

D. The humane slaughter and handling of animals and the adulteration and misbranding provisions of Sections 6-181 through 6-196 of this title, other than the requirement of the inspection legend, shall apply to articles which are not required to be inspected under this section.

Added by Laws 1968, c. 63, § 15, emerg. eff. March 19, 1968. Amended by Laws 1978, c. 70, § 1; Laws 1985, c. 38, § 8, eff. Nov. 1, 1985; Laws 2010, c. 90, § 1, emerg. eff. April 12, 2010.

§2-6-196. Storing and handling - Regulations.

The Board may, by regulations, prescribe conditions under which carcasses, parts of carcasses, meat, and meat food products of cattle, bison, sheep, swine, goats, horses, mules, or other equines, capable of use as human food, shall be stored or otherwise handled by any person, firm, or corporation engaged in the business of buying,

selling, freezing, storing, or transporting, in or for intrastate commerce, such articles, whenever the Board deems such action necessary to assure that such articles will not be adulterated or misbranded when delivered to the consumer. Violation of any such regulation is prohibited.

Amended by Laws 1985, c. 38, § 9, eff. Nov. 1, 1985.

§2-6-197. Articles not intended as human food.

Inspection shall not be provided under Sections 181 et seq. of this title at any establishment for the slaughter of cattle, bison, sheep, swine, goats, horses, mules, or other equines, or the preparation of any carcasses or parts or products of such animals which are not intended for use as human food, but such articles shall, prior to their offer for sale or transportation in intrastate commerce, unless naturally inedible by humans, be denatured or otherwise identified as prescribed by regulations of the Board to deter their use for human food. No person, firm, or corporation shall buy, sell, transport, or offer for sale or transportation, or receive for transportation, in intrastate commerce, any carcasses, parts thereof, meat or meat food products of any such animals, which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the Board or are naturally inedible by humans.

Amended by Laws 1985, c. 38, § 10, eff. Nov. 1, 1985.

§2-6-198. Records.

(a) The following classes of persons, firms, and corporations shall keep such records as will fully and correctly disclose all transactions involved in their businesses; and all persons, firms, and corporations subject to such requirements shall, at all reasonable times, upon notice by a duly authorized representative of the Board, afford such representative and any duly authorized representative of the Secretary of Agriculture of the United States accompanied by such representative of the Board access to their places of business and opportunity to examine the facilities, inventory, and records thereof, to copy all such records, and to take reasonable samples of their inventory upon payment of the fair market value therefor:

(1) Any persons, firms, or corporations that engage, for intrastate commerce, in the business of slaughtering any cattle, bison, sheep, swine, goats, horses, mules, or other equines, or preparing, freezing, packaging, or labeling any carcasses, or parts or products of carcasses, of any such animals, for use as human food or animal food;

(2) Any persons, firms, or corporations that engage in the business of buying or selling (as meat brokers, wholesalers or otherwise), or transporting, in intrastate commerce, or storing in or

for such commerce, any carcasses, or parts or products of carcasses, of any such animals;

(3) Any persons, firms, or corporations that engage in business, in or for intrastate commerce, as renderers, or engage in the business of buying, selling, or transporting, in such commerce, any dead, dying, disabled, or diseased cattle, bison, sheep, swine, goats, horses, mules, or other equines, or parts of the carcasses of any such animals that died otherwise than by slaughter.

(b) Any record required to be maintained by this section shall be maintained for such period of time as the Board may by regulations prescribe.

Amended by Laws 1985, c. 38, § 11, eff. Nov. 1, 1985.

§2-6-199. Registration of certain businesses.

No person, firm, or corporation shall engage in business, in or for intrastate commerce, as a meat broker, renderer, or animal food manufacturer, or engage in business in such commerce as a wholesaler of any carcasses, or parts or products of the carcasses, of any cattle, bison, sheep, swine, goats, horses, mules, or other equines, whether intended for human food or other purposes, or engage in business as a public warehouseman storing any such articles in or for such commerce, or engage in the business of buying, selling, or transporting in such commerce any dead, dying, disabled, or diseased animals of the specified kinds, or parts of the carcasses of any such animals that died otherwise than by slaughter, unless, when required by regulations of the Board, he has registered with the Board his name, and the address of each place of business at which and all trade names under which he conducts such business.

Laws 1955, p. 42, art. 6(A), § 2.

§2-6-200. Dead, dying or disabled animals - Regulations concerning.

No person, firm, or corporation engaged in the business of buying, selling, or transporting in intrastate commerce dead, dying, disabled, or diseased animals, or any part of the carcasses of any animals that died otherwise than by slaughter, shall buy, sell, transport, offer for sale or transportation, or receive for transportation, in such commerce, any dead, dying, disabled, or diseased cattle, bison, sheep, swine, goats, horses, mules or other equines, or parts of the carcasses of any such animals that died otherwise than by slaughter, unless such transaction or transportation is made in accordance with such regulations as the Board prescribes to assure that such animals, or the unwholesome parts or products thereof, will be prevented from being used for human food purposes.

Amended by Laws 1985, c. 38, § 13, eff. Nov. 1, 1985.

§2-6-201. Cooperation with Federal Government.

(a) The Oklahoma State Board of Agriculture is hereby designated as the state agency which shall be responsible for cooperating with the Secretary of Agriculture of the United States under the provisions of Section 301 of the Federal Meat Inspection Act and such agency may cooperate with the Secretary of Agriculture of the United States in developing and administering the meat inspection program of this state under this act to assure that not later than November 15, 1969, its requirements will be at least equal to those imposed under Titles I and IV of the Federal Meat Inspection Act and in developing and administering the program of this state under Section 6-197 et seq. of this title in such a manner as will effectuate the purposes of this act and said Federal Act.

(b) In such cooperative efforts, the Oklahoma State Board of Agriculture is authorized to accept from said Secretary advisory assistance in planning and otherwise developing the state program, technical and laboratory assistance and training (including necessary curricular and instructional materials and equipment), and financial and other aid for administration of such a program. The Oklahoma State Board of Agriculture is further authorized to spend public funds of this state appropriated for administration of this act.

(c) The Oklahoma State Board of Agriculture is further authorized to recommend to the said Secretary of Agriculture such officials or employees of this state as the Oklahoma State Board of Agriculture shall designate, for appointment to the advisory committees provided for in Section 301 of the Federal Meat Inspection Act; and the President of the Oklahoma State Board of Agriculture shall serve as the representative of the Governor for consultation with said Secretary under paragraph (c) of Section 301 of said act, unless the Governor shall select another representative.
Amended by Laws 1986, c. 309, § 10, operative July 1, 1986.

§2-6-202. Refusal or withdrawal of inspection.

The Board may (for such period, or indefinitely, as it deems necessary to effectuate the purposes of this act) refuse to provide, or withdraw, inspection service under Sections 1 through 16 of this act with respect to any establishment if it determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection under Sections 1 through 16 of this act because the applicant or recipient, or anyone responsibly connected with the applicant or recipient, has been convicted, in any federal or state court of (1) any felony, or (2) more than one (1) violation of any law, other than a felony, based upon the acquiring, handling, or distributing of unwholesome, mislabeled, or deceptively packaged food or upon fraud in connection with transactions in food. This section shall not affect in any way other provisions of this act for withdrawal of inspection services

under Sections 1 through 16 from establishments failing to maintain sanitary conditions or to destroy condemned carcasses, parts, meat or meat food products.

For the purpose of this section a person shall be deemed to be responsibly connected with the business if he was a partner, officer, director, holder, or owner of ten percent (10%) or more of its voting stock or employee in a managerial or executive capacity. The determination and order of the Board with respect thereto under this section shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within thirty (30) days after the effective date of such order in the appropriate court as provided in Section 25. Judicial review of any such order shall be upon the record upon which the determination and order are based.

Laws 1968, c. 63, § 22, emerg. eff. March 19, 1968.

§2-6-203. Detention of animals or products.

Whenever any carcass, part of a carcass, meat or meat food product of cattle, bison, sheep, swine, goats, horses, mules, or other equines, or any product exempted from the definition of a meat food product, or any dead, dying, disabled, or diseased cattle, bison, sheep, swine, goat, or equine is found by any authorized representative of the Board upon any premises where it is held for purposes of or during or after distribution in intrastate commerce, and there is reason to believe that any such article is adulterated or misbranded and is capable of use as human food, or that it has not been inspected, in violation of the provisions of Sections 6-181 et seq. of this title or of the Federal Meat Inspection Act or the Federal Food, Drug, and Cosmetic Act, or that such article or animal has been or is intended to be distributed in violation of any such provisions, it may be detained by such representative for a period not to exceed twenty (20) days, pending action under Section 6-204 of this title or notification of any federal authorities having jurisdiction over such article or animal, and shall not be moved by any person, firm, or corporation from the place at which it is located when so detained, until released by such representative. All official marks may be required by such representative to be removed from such article or animal before it is released unless it appears to the satisfaction of the Board that the article or animal is eligible to retain such marks.

Laws 1968, c. 63, § 22, emerg. eff. March 19, 1968.

§2-6-204. Seizure and condemnation.

(a) Any carcass, part of a carcass, meat or meat food product of cattle, bison, sheep, swine, goats, horses, mules or other equines, or any dead, dying, disabled, or diseased cattle, bison, sheep, swine, goat, or equine, that is being transported in intrastate

commerce, or is held for sale in this state after such transportation, and that (1) is or has been prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of this act, or (2) is capable of use as human food and is adulterated or misbranded, or (3) in any other way is in violation of this act, shall be liable to be proceeded against and seized and condemned, at any time, on an information filed in any proper court as provided in Section 6-205 of this title within the jurisdiction of which the article or animal is found. If the article or animal is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the treasury of this state, but the article or animal shall not be sold contrary to the provisions of this act, or the Federal Meat Inspection Act or the Federal Food, Drug, and Cosmetic Act, provided, that upon the execution and delivery of a good and sufficient bond conditioned that the article or animal shall not be sold or otherwise disposed of contrary to the provisions of this act, or the laws of the United States, the court may direct that such article or animal be delivered to the owner thereof subject to such supervision by authorized representatives of the Board as is necessary to ensure compliance with the applicable laws. When a decree of condemnation is entered against the article or animal and it is released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the article or animal. The proceedings shall be at the suit of and in the name of this state.

(b) The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of this act, or other laws.

Amended by Laws 1985, c. 38, § 15, eff. Nov. 1, 1985.

§2-6-205. District courts - Jurisdiction.

The district courts are vested with jurisdiction specifically to enforce and to prevent and restrain violations of this act, and shall have jurisdiction in all other kinds of cases arising under this act, except as provided in Section 7(e) of this act.

Laws 1968, c. 63, § 25, emerg. eff. March 19, 1968.

§2-6-206. Interference with persons engaged in official duties - Penalties.

Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this act shall be guilty of a felony and fined not more than Five Thousand Dollars (\$5,000.00) or imprisoned not more than three (3) years, or

both. Whoever, in the commission of any such acts, uses a deadly or dangerous weapon shall be guilty of a felony and fined not more than Ten Thousand Dollars (\$10,000.00), or imprisoned not more than ten (10) years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this act shall be punished as provided under Section 691 of Title 21 of the Oklahoma Statutes.

Added by Laws 1968, c. 63, § 26, emerg. eff. March 19, 1968. Amended by Laws 1997, c. 133, § 90, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 28, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 90 from July 1, 1998, to July 1, 1999.

§2-6-207. Violations and penalties.

(a) Any person, firm, or corporation who violates any provision of the Oklahoma Meat Inspection Act for which no other criminal penalty is provided by this act shall upon conviction be subject to imprisonment for not more than one (1) year, or a fine of not more than One Thousand Dollars (\$1,000.00), or both such imprisonment and fine; but if such violation involves intent to defraud, or any distribution or attempted distribution of an article that is adulterated (except as defined in subparagraph (8) of paragraph (j) of Section 6-182 of this title), such person, firm, or corporation shall be subject to imprisonment for not more than three (3) years, or a fine of not more than Ten Thousand Dollars (\$10,000.00), or both; provided, that no person, firm, or corporation shall be subject to penalties under this section for receiving for transportation any article or animal in violation of this act if such receipt was made in good faith, unless such person, firm, or corporation refuses to furnish on request of a representative of the Board the name and address of the person from whom he received such article or animal, and copies of all documents, if any there be, pertaining to the delivery of the article or animal to him.

(b) Nothing in this act shall be construed as requiring the Board to report for prosecution, or for the institution of legal action or injunction proceedings, minor violations of this act whenever it believes that the public interest will be adequately served by a suitable written notice of warning.

Added by Laws 1968, c. 63, § 27, emerg. eff. March 19, 1968. Amended by Laws 1997, c. 133, § 88, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 26, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 88 from July 1, 1998, to July 1, 1999.

§2-6-208. Powers of Board.

(a) The Board shall also have power:

(1) To gather and compile information concerning and to investigate from time to time the organization, business, conduct, practices, and management of any person, firm, or corporation engaged in intrastate commerce, and the relation thereof to other persons, firms, and corporations;

(2) To require, by general or special orders, persons, firms, and corporations engaged in intrastate commerce, or any class of them, or any of them to file with the Board in such form as the Board may prescribe, annual or special, or both annual and special, reports or answers, in writing, to specific questions, furnishing to the Board such information as it may require as to the organization, business, conduct, practices, management, and relation to other persons, firms, and corporations, of the person, firm, or corporation filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the Board may prescribe, and shall be filed with the Board within such reasonable period as the Board may prescribe, unless additional time be granted in any case by the Board.

(b) For the purposes of this act the Board shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person, firm, or corporation being investigated or proceeded against, and may require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence of any person, firm, or corporation relating to any matter under investigation. The Board may sign subpoenas and may administer oaths and affirmations, examine witnesses, and receive evidence.

(1) Such attendance of witnesses and the production of such documentary evidence may be required at any designated place of hearing. In case of disobedience to a subpoena the Board may invoke the aid of any court designated in Section 6-205 of this title in requiring the attendance and testimony of witnesses and the production of documentary evidence.

(2) Any of the courts designated in Section 6-205 of this title within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, firm, or corporation, issue an order requiring such person, firm, or corporation to appear before the Board or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(3) Upon the application of the Attorney General of this state at the request of the Board, the district court shall have jurisdiction to issue writs of mandamus commanding any person, firm, or corporation to comply with the provisions of this act or any order of the Board made in pursuance thereof.

(4) The Board may order testimony to be taken by deposition in any proceeding or investigation pending under this act at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Board and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Board as hereinbefore provided.

(5) Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of this state, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in such courts, except the person or representatives of the firm or corporation charged with a violation and so summoned shall not be paid the fees and mileage that are paid witnesses.

(6) No person, firm, or corporation shall be excused from attending and testifying or from producing books, papers, schedules of charges, contracts, agreements, or other documentary evidence before the Board or in obedience to the subpoena of the Board, whether such subpoena be signed or issued by it or its delegate, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of this act, or of any amendments thereto, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him or it may tend to incriminate him or it or subject him or it to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(c) Any person, firm, or corporation that shall neglect or refuse to attend and testify or to answer any lawful inquiry, or to produce documentary evidence, if in his or its power to do so, in obedience to the subpoena or lawful requirement of the Board shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

(1) Any person, firm, or corporation that shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this act, or that shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any person, firm, or corporation subject to this

act or that shall willfully neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions appertaining to the business of such person, firm, or corporation, or that shall willfully remove out of the jurisdiction of this state, or willfully mutilate, alter, or by any other means falsify any documentary evidence of any such person, firm, or corporation or that shall willfully refuse to submit to the Board or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any such person, firm, or corporation in his possession or within his control, shall be deemed guilty of a felony. Such person shall be subject, upon conviction in any court of competent jurisdiction, to a fine of not more than Five Thousand Dollars (\$5,000.00), or to imprisonment for a term of not more than three (3) years, or to both such fine and imprisonment.

(2) If any person, firm, or corporation required by this act to file any annual or special report shall fail so to do within the time fixed by the Board for filing the same, and such failure shall continue for thirty (30) days after notice of such default, such person, firm, or corporation shall forfeit to this state the sum of One Hundred Dollars (\$100.00) for each and every day of the continuance of such failure, which forfeiture shall be payable into the treasury of this state, and shall be recoverable in a civil suit in the name of the state brought in the county where the person, firm, or corporation has his or its principal office or in any county in which he or it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of this state, to prosecute for the recovery of such forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of this state.

(3) Any officer or employee of this state who shall make public any information obtained by the Board without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment, in the discretion of the court.

Added by Laws 1968, c. 63, § 28, emerg. eff. March 19, 1968. Amended by Laws 1997, c. 133, § 91, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 29, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 91 from July 1, 1998, to July 1, 1999.

§2-6-209. Application of act with respect to Federal Meat Inspection Act.

The requirements of this act shall apply to persons, firms, corporation establishments, animals, and articles regulated under the Federal Meat Inspection Act only to the extent provided for in Section 408 of said Federal Act.

Laws 1968, c. 63, § 29, emerg. eff. March 19, 1968.

§2-6-213. Administration of Meat Inspection Act and Poultry Product Inspection Act.

The State Department of Agriculture shall carry out the provisions of the Oklahoma Meat Inspection Act, Sections 6-181 through 6-209 of Title 2 of the Oklahoma Statutes and the Oklahoma Poultry Products Inspection Act, Sections 6-251 through 6-276 of Title 2 of the Oklahoma Statutes. Further, the provisions of this act shall be administered by the Department despite any potential requested reductions in the overall Department budget.

Added by Laws 1987, c. 237, § 1, emerg. eff. May 4, 1987.

§2-6-251. Short title.

This act shall be designated as the Oklahoma Poultry Products Inspection Act.

Laws 1970, c. 260, § 1, emerg. eff. April 22, 1970.

§2-6-252. Purpose.

Poultry and poultry products are an important source of the nation's total supply of food. It is essential in the public interest that the health and welfare of consumers be protected by assuring that slaughtered poultry and poultry products distributed to them are wholesome, not adulterated, and properly marked, labeled, and packaged. Unwholesome, adulterated, or misbranded poultry or poultry products are injurious to the public welfare, destroy markets for wholesome, not adulterated, and properly labeled and packaged poultry and poultry products, and result in sundry losses to poultry producers and processors of poultry and poultry products, as well as injury to consumers. The unwholesome, adulterated, mislabeled, or deceptively packaged articles can be sold at lower prices and compete unfairly with the wholesome, not adulterated, and properly labeled and packaged articles, to the detriment of consumers and the public generally. It is hereby found that regulation by the Board and cooperation by this state and the United States as contemplated by this act are appropriate to protect the health and welfare of consumers and otherwise effectuate the purposes of this act.

Laws 1970, c. 260, § 2, emerg. eff. April 22, 1970.

§2-6-253. Policy and intent.

It is hereby declared to be the policy of the Legislature of this state to provide for the inspection of poultry and poultry products and otherwise regulate the processing and distribution of such

articles as hereinafter prescribed to prevent the movement or sale in intrastate commerce of poultry and poultry products which are adulterated or misbranded. It is the intent of the Legislature that when poultry and poultry products are condemned because of disease, the reason for condemnation in such instances shall be supported by scientific fact, information, or criteria, and such condemnation under this act shall be achieved through uniform inspection standards and uniform applications thereof.

Laws 1970, c. 260, § 3, emerg. eff. April 22, 1970.

§2-6-254. Definitions.

For the purposes of this act, the following terms shall have the meanings stated below:

1. The term "Board" means the State Board of Agriculture or its delegate.

2. The term "person" means any individual, partnership, corporation, association, or other business unit.

3. The term "poultry products broker" means any person engaged in the business of buying or selling poultry products on commission, or otherwise negotiating purchases or sales of such articles other than for his own account or as an employee of another person.

4. The term "renderer" means any person engaged in the business of rendering carcasses, or parts or products of the carcasses, of poultry, except rendering conducted under inspection or exemption under this act.

5. The term "animal food manufacturer" means any person engaged in the business of manufacturing or processing animal food derived wholly or in part from carcasses, or parts or products of the carcasses, of poultry.

6. The term "intrastate commerce" means commerce within this state.

7. The term "poultry" means any domesticated bird, whether live or dead.

8. The term "poultry product" means any poultry carcass, or part thereof; or any product which is made wholly or in part from any poultry carcass or part thereof, excepting products which contain poultry ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the poultry food industry, and which are exempted by the Board from definition as a poultry product under such conditions as the Board may prescribe to assure that the poultry ingredients in such products are not adulterated and that such products are not represented as poultry products.

9. The term "capable of use as human food" shall apply to any carcass, or part or product of a carcass, of any poultry, unless it is denatured or otherwise identified as required by regulations

prescribed by the Board to deter its use as human food, or it is naturally inedible by humans.

10. The term "processed" means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured or processed.

11. The term "adulterated" shall apply to any poultry product under one or more of the following circumstances:

(a) if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(b) (1) if it bears or contains, by reason of administration of any substance to the live poultry or otherwise, any added poisonous or added deleterious substance, other than one which is:

a. a pesticide chemical in or on a raw agricultural commodity;

b. a food additive; or

c. a color additive;

which may, in the judgment of the Board, make such article unfit for human food;

(2) if it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of Section 408 of the Federal Food, Drug, and Cosmetic Act;

(3) if it bears or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act;

(4) if it bears or contains any color additive which is unsafe within the meaning of Section 706 of the Federal Food, Drug, and Cosmetic Act:

Provided, that an article which is not otherwise deemed adulterated under clause (2), (3), or (4) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on such article is prohibited by regulations of the Board in official establishments;

(c) if it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

(d) if it has been prepared, packed, or held under insanitary conditions whereby it may become contaminated with filth, or whereby it may have been rendered injurious to health;

(e) if it is, in whole or in part, the product of any poultry which has died otherwise than by slaughter;

(f) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(g) if it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to Section 409 of the Federal Food, Drug, and Cosmetic Act; or

(h) if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

12. The term "misbranded" shall apply to any poultry product under one or more of the following circumstances:

(a) if its labeling is false or misleading in any particular;

(b) if it is offered for sale under the name of another food;

(c) if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter the name of the food imitated;

(d) if its container is so made, formed, or filled as to be misleading;

(e) unless it bears a label showing:

(1) the name and place of business of the manufacturer, packer, or distributor; and

(2) an accurate statement of the quantity of the product in terms of weight, measure, or numerical count;

Provided, that under clause (2) of this subparagraph (e), reasonable variations may be permitted, and exemptions as to small packages or articles not in packages or other containers may be established, by regulations prescribed by the Board;

(f) if any word, statement, or other information required by or under authority of this act to appear on the label or other labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or devices, in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(g) if it purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by regulations of the Board under Section 8 of this act unless:

(1) it conforms to such definition and standard, and

(2) its label bears the name of the food specified in the definition and standard and, insofar as may be required by such regulations, the common names of optional ingredients, other than spices, flavoring, and coloring, present in such food;

(h) if it purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by regulations of the Board under Section 8 of this act, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;

(i) if it is not subject to the provisions of subparagraph (g) unless its label bears

(1) the common or usual name of the food, if any there be, and

(2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings may, when authorized by the Board, be designated as spices, flavorings, and colorings without naming each:

Provided, that to the extent that compliance with the requirements of clause (2) of this subparagraph (i) is impracticable, or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Board.

(j) if it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Board, after consultation with the Secretary of Agriculture of the United States, determines to be, and by regulations prescribes as, necessary in order fully to inform purchasers as to its value for such uses;

(k) if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided, that, to the extent that compliance with the requirements of this subparagraph (k) is impracticable, exemptions shall be established by regulations promulgated by the Board; or

(1) if it fails to bear on its containers, and in the case of nonconsumer packed carcasses, if the Board so requires, directly thereon, as the Board may by regulations prescribed, the official inspection legend and official establishment number of the establishment where the article was processed and, unrestricted by any of the foregoing, such other information as the Board may require in such regulations to assure that it will not have false or misleading labeling and that the public will be informed of the

manner of handling required to maintain the article in a wholesome condition.

13. The term "label" means a display of written, printed, or graphic matter upon any article or the immediate container, not including package liners, of any article.

14. The term "labeling" means all labels and other written, printed, or graphic matter

(a) upon any article or any of its containers or wrappers, or

(b) accompanying such article.

15. The term "Federal Poultry Products Inspection Act" means the act so entitled approved August 28, 1957 (71 Stat. 441), as amended by the Wholesome Poultry Products Act (82 Stat. 791).

16. The term "Federal Food, Drug, and Cosmetic Act" means the act so entitled, approved June 25, 1938 (52 Stat. 1040), and acts amendatory thereof or supplementary thereto.

17. The terms "pesticide chemical", "food additive", "color additive", and "raw agricultural commodity" shall have the same meanings for purposes of this act as under the Federal Food, Drug, and Cosmetic Act.

18. The term "official mark" means the official inspection legend or any other symbol prescribed by regulation of the Board to identify the status of any article or poultry under this act.

19. The term "official inspection legend" means any symbol prescribed by regulation of the Board showing that an article was inspected for wholesomeness in accordance with this act.

20. The term "official certificate" means any certificate prescribed by regulation of the Board for issuance by an inspector or other person performing official functions under this act.

21. The term "official device" means any device prescribed or authorized by the Board for use in applying any official mark.

22. The term "official establishment" means any establishment as determined by the Board at which inspection of the slaughter of poultry, or the processing of poultry products, is maintained under the authority of this act.

23. The term "inspection service" means the Meat Inspection Division designated by the Board as having the responsibility for carrying out the provisions of this act.

24. The term "inspector" means an employee or official of the State Board of Agriculture authorized by the Board to inspect poultry and poultry products under the authority of this act, or any employee or official of the government of any county or other governmental subdivision of this state authorized by the Board to inspect poultry and poultry products under authority of this act, under an agreement entered into between the Board and such governmental subdivision.

25. The term "container" or "package" includes any box, can, tin, cloth, plastic, or other receptacle, wrapper, or cover.

26. The term "shipping container" means any container used or intended for use in packaging the product packed in an immediate container.

27. The term "immediate container" includes any consumer package; or any other container in which poultry products, not consumer packaged, are packed.

Laws 1970, c. 260, § 4, emerg. eff. April 22, 1970.

§2-6-255. Cooperative efforts.

A. The State Board of Agriculture is hereby designated as the state agency which shall be responsible for cooperating with the Secretary of Agriculture of the United States under the provisions of Section 5 of the Federal Poultry Products Inspection Act and such agency may cooperate with the Secretary of Agriculture of the United States in developing and administering the poultry products inspection program of this state under this act to assure that not later than August 18, 1970, the state requirements will be at least equal to those imposed under Sections 1-4, 6-10, and 12-22 of the Federal Poultry Products Inspection Act and in developing and administering the program of this state under Section 11 of this act in such a manner as will effectuate the purposes of this act and said Federal Act.

B. In such cooperative efforts, the Board is authorized to accept from said Secretary advisory assistance in planning and otherwise developing the state program, technical and laboratory assistance and training, including necessary curricular and instructional materials and equipment, and financial and other aid for administration of such a program. The Board is further authorized to spend public funds of this state appropriated for administration of this act to pay such share of the estimated total cost of the cooperative program as may be agreed upon by the Board and the Secretary.

C. The Board is further authorized to recommend to the said Secretary of Agriculture such officials or employees of this state as the Board shall designate, for appointment to the advisory committees provided for in Section 5 of the Federal Poultry Products Inspection Act; and the Board shall serve as the representative of the Governor for consultation with said Secretary under paragraph C of Section 5 of said act unless the Governor shall select another representative. Laws 1970, c. 260, § 5, emerg. eff. April 22, 1970.

§2-6-256. Antemortem and postmortem inspection in official establishments - Condemnation - Appeals.

A. For the purpose of preventing the entry into or flow or movement in intrastate commerce of any poultry product which is capable of use as human food and is adulterated, the Board shall, where and to the extent considered by it necessary, cause to be made

by inspectors antemortem inspection of poultry in each official establishment engaged in processing poultry or poultry products solely for intrastate commerce.

B. The Board, whenever processing operations are being conducted, shall cause to be made by inspectors postmortem inspection of the carcass of each bird processed, and at any time such quarantine, segregation and reinspection as it deems necessary of poultry and poultry products capable of use as human food in each official establishment engaged in processing poultry or poultry products solely for intrastate commerce.

C. All poultry carcasses and parts thereof and other poultry products found to be adulterated shall be condemned and shall, if no appeal be taken from such determination of condemnation, be destroyed for human food purposes under the provision of an inspector. Provided, that carcasses, parts, and products which may by reprocessing be made not adulterated, need not be so condemned and destroyed if so reprocessed under the supervision of an inspector and thereafter found to be not adulterated. If an appeal be taken from such determination, the carcasses, parts, or products shall be appropriately marked and segregated pending completion of an appeal inspection, which appeal shall be at the cost of the appellant if the Board determines that the appeal is frivolous. If the determination of condemnation is sustained, the carcasses, parts, and products shall be destroyed for food purposes under the supervision of an inspector.

Laws 1970, c. 260, § 6, emerg. eff. April 22, 1970.

§2-6-257. Sanitary practices.

A. Each official establishment slaughtering poultry or processing poultry products solely for intrastate commerce shall have such premises, facilities, and equipment, and be operated in accordance with such sanitary practices, as are required by regulations promulgated by the Board for the purpose of preventing the entry into or flow or movement in intrastate commerce of poultry products which are adulterated.

B. The Board shall refuse to render inspection to any establishment whose premises, facilities, or equipment, or the operation thereof, fail to meet the requirements of this section.

Laws 1970, c. 260, § 7, emerg. eff. April 22, 1970.

§2-6-258. Marking and labeling.

A. All poultry products inspected at any official establishment under the authority of this act and found to be not adulterated shall at the time they leave the establishment bear, in distinctly legible form, on their shipping containers and immediate containers as the Board may require, the information required under paragraph 12 of Section 4 of this act. In addition, the Board whenever it determines

such action is practicable and necessary for the protection of the public may require nonconsumer packaged carcasses at the time they leave the establishment to bear directly thereon in distinctly legible form any information required under such paragraph 12.

B. The Board, whenever it determines such action is necessary for the protection of the public, may prescribe:

1. the styles and sizes of type to be used with respect to material required to be incorporated in labeling to avoid false or misleading labeling in marking or otherwise labeling any articles or poultry subject to this act; and

2. definitions and standards of identity or composition for articles subject to this act and standards of fill of container for such articles not inconsistent with any such standards established under the Federal Food, Drug, and Cosmetic Act, or under the Federal Poultry Products Inspection Act, and there shall be consultation between the Board and the Secretary of Agriculture of the United States prior to the issuance of such standards to avoid inconsistency between such standards and the Federal standards.

C. No article subject to this act shall be sold or offered for sale by any person in intrastate commerce, under any name or other marking or labeling which is false or misleading, or in any container of a misleading form or size, but established trade names and other marking and labeling and containers which are not false or misleading and which are approved by the Board are permitted.

D. If the Board has reason to believe that any marking or labeling or the size or form of any container in use or proposed for use with respect to any article subject to this act is false or misleading in any particular, it may direct that such use be withheld unless the marking, labeling, or container is modified in such manner as it may prescribe so that it will not be false or misleading. If the person using or proposing to use the marking, labeling or container does not accept the determination of the Board, such person may request a hearing, but the use of the marking, labeling, or container shall, if the Board so directs, be withheld pending hearing and final determination by the Board. Any such determination by the Board shall be conclusive unless, within thirty (30) days after receipt of notice of such final determination, the person adversely affected thereby appeals to the District Court of Oklahoma County. This provision would not apply to established trademarks or labeling approved by the U.S.D.A.

Laws 1970, c. 260, § 8, emerg. eff. April 22, 1970.

§2-6-259. Prohibited acts.

A. No person shall:

1. slaughter any poultry or process any poultry products which are capable of use as human food at any establishment

processing any such articles solely for intrastate commerce, except in compliance with the requirements of this act;

2. sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce:

(a) any poultry products which are capable of use as human food and are adulterated or misbranded at the time of such sale, transportation, offer for sale or transportation, or receipt for transportation; or

(b) any poultry products required to be inspected under this act unless they have been so inspected and passed;

3. do, with respect to any poultry products which are capable of use as human food, any act while they are being transported in intrastate commerce or held for sale after such transportation, which is intended to cause or has the effect of causing such products to be adulterated or misbranded;

4. sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce or from an official establishment, any slaughtered poultry from which the blood, feathers, feet, head, or viscera have not been removed in accordance with regulations promulgated by the Board, except as may be authorized by regulations of the Board;

5. use to his own advantage, or reveal other than to the authorized representatives of the state government or any other government in their official capacity, or as ordered by a court in any judicial proceedings, any information acquired under the authority of this act concerning any matter which is entitled to protection as a trade secret.

B. No brand manufacturer, printer, or other person shall cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the Board.

C. No person shall:

1. forge any official device, mark, or certificate;

2. without authorization from the Board use any official device, mark, or certificate, or simulation thereof, or alter, detach, deface, or destroy any official device, mark, or certificate;

3. contrary to the regulations prescribed by the Board, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

4. knowingly possess, without promptly notifying the Board or its representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label or any carcass of any poultry, or part or product thereof, bearing any counterfeit, simulated, forged, or improperly altered official mark;

5. knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the Board; or

6. knowingly represent that any article has been inspected and passed, or exempted, under this act when, in fact, it has, respectively, not been so inspected and passed, or exempted.
Laws 1970, c. 260, § 8, emerg. eff. April 22, 1970.

§2-6-260. Compliance with act.

No establishment processing poultry or poultry products solely for intrastate commerce shall process any poultry or poultry product capable of use as human food except in compliance with the requirements of this act.

Laws 1970, c. 260, § 10, emerg. eff. April 22, 1970.

§2-6-261. Products not intended for use as human food - Records - Brokers, renderers or manufacturers - Dead or diseased poultry.

A. Inspection shall not be provided under this act at any establishment for the slaughter of poultry or the processing of any carcasses or parts or products of poultry, which are not intended for use as human food, but such articles shall, prior to their offer for sale or transportation in intrastate commerce, be denatured or otherwise identified as prescribed by regulations of the Board to deter their use for human food. No person shall buy, sell, transport, or offer for sale or transportation, or receive for transportation, in intrastate commerce, any poultry carcasses or parts or products thereof which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the Board or naturally inedible by humans.

B. The following classes of persons shall, for such period of time as the Board may by regulations prescribe, not to exceed two (2) years unless otherwise directed by the Board for good cause shown, keep such records as are properly necessary for the effective enforcement of this act in order to insure against adulterated or misbranded poultry products for the American consumer; and all persons subject to such requirements shall, at all reasonable times, upon notice by a duly authorized representative of the Board, afford such representative access to their places of business and opportunity to examine the facilities, inventory, and records thereof, to copy all such records, and to take reasonable samples of their inventory upon payment of the fair market value therefor:

1. Any person that engages in the business of slaughtering any poultry or processing, freezing, packaging, or labeling any carcasses, or parts or products of carcasses, of any poultry, for intrastate commerce, for use as human food or animal food;

2. Any person that engages in the business of buying or selling, as poultry products brokers, wholesalers, or otherwise, or

transporting, in intrastate commerce, or storing in or for intrastate commerce, any carcasses, or parts or products of carcasses, of any poultry;

3. Any person that engages in business, in or for intrastate commerce, as a renderer, or engages in the business of buying, selling, or transporting, in intrastate commerce, any dead, dying, disabled, or diseased poultry or parts of the carcasses of any poultry that died otherwise than by slaughter.

C. No person shall engage in business, in or for intrastate commerce, as a poultry products broker, renderer, or animal food manufacturer, or engage in business in intrastate commerce as a wholesaler of any carcasses, or parts or products of the carcasses, of any poultry, whether intended for human food or other purposes, or engage in business as a public warehouseman storing any such articles in or for intrastate commerce, or engage in the business of buying, selling, or transporting in intrastate commerce any dead, dying, disabled, or diseased poultry, or parts of the carcasses of any poultry that died otherwise than by slaughter, unless, when required by regulations of the Board, he has registered with the Board his name and the address of each place of business at which, and all trade names under which, he conducts such business.

D. No person engaged in the business of buying, selling, or transporting in intrastate commerce, dead, dying, disabled or diseased poultry, or any parts of the carcasses of any poultry that dies otherwise than by slaughter, shall buy, sell, transport, offer for sale or transportation, or receive for transportation in intrastate commerce, any dead, dying, disabled, or diseased poultry or parts of the carcasses of any poultry that died otherwise than by slaughter, unless such transaction or transportation is made in accordance with such regulations as the Board may prescribe to assure that such poultry, or the unwholesome parts or products thereof, will be prevented from being used for human food.

Laws 1970, c. 260, § 11, emerg. eff. April 22, 1970.

§2-6-262. Penalties.

A. Any person who violates the provisions of Sections 6-259, 6-260, 6-261 or 6-264 of this title shall be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned not more than one (1) year, or both; but if such violation involves intent to defraud, or any distribution or attempted distribution of an article that is adulterated, except as defined in subparagraph (h) of paragraph 11 of Section 6-254 of this title, such person shall be guilty of a felony and fined not more than Ten Thousand Dollars (\$10,000.00) or imprisoned not more than three (3) years or both. When construing or enforcing the provisions of said sections, the act, omission, or failure of any person acting for or employed by any individual, partnership, corporation, or association within the scope of his

employment or office shall in every case be deemed the act, omission, or failure of such individual, partnership, corporation, or association, as well as of such person.

B. No carrier shall be subject to the penalties of this act, other than the penalties for violation of Section 6-261 of this title, by reason of his receipt, carriage, holding, or delivery, in the usual course of business, as a carrier of poultry or poultry products, owned by another person unless the carrier has knowledge, or is in possession of facts which would cause a reasonable person to believe that such poultry or poultry products were not inspected or marked in accordance with the provisions of this act or were otherwise not eligible for transportation under this act or unless the carrier refuses to furnish on request of a representative of the Board the name and address of the person from whom he received such poultry or poultry products, and copies of all documents, if any there be, pertaining to the delivery of the poultry or poultry products to such carrier.

C. Any person who interferes by any act with an inspector in the performance of his official duties shall be guilty of a misdemeanor. Added by Laws 1970, c. 260, § 12, emerg. eff. April 22, 1970. Amended by Laws 1997, c. 133, § 92, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 30, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 92 from July 1, 1998, to July 1, 1999.

§2-6-263. Notice of violations.

Before any violation of this act is reported by the Board to any district attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given reasonable notice of the alleged violation and opportunity to present his views orally or in writing with regard to such contemplated proceeding. Nothing in this act shall be construed as requiring the Board to report for criminal prosecution violation of this act whenever it believes that the public interest will be adequately served and compliance with the act obtained by a suitable written notice or warning.

Laws 1970, c. 260, § 13, emerg. eff. April 22, 1970.

§2-6-264. Storage and handling regulations.

A. The Board may by regulations prescribe conditions under which poultry products capable of use as human food shall be stored or otherwise handled by any person engaged in the business of buying, selling, freezing, storing, or transporting, in or for intrastate commerce, such articles, whenever the Board deems such action necessary to assure that such articles will not be adulterated or misbranded when delivered to the consumer. Violation of any such regulation is prohibited.

B. The Board shall promulgate such other rules and regulations as are necessary to carry out the provisions of this act.

C. When opportunity is afforded for submission of comments by interested persons on proposed rules or regulations under this act, it shall include opportunity for oral presentation of views.

Laws 1970, c. 260, § 14, emerg. eff. April 22, 1970.

§2-6-265. Exemptions.

A. The Board shall, by regulation and under such conditions, including requirements, as to sanitary standards, practices, and procedures as it may prescribe, exempt from specific provisions of this act with respect to processing of poultry or poultry products solely for intrastate commerce and distribution of poultry or poultry products only in such commerce:

1. for such period of time as the Board determines that it would be impracticable to provide inspection and the exemption will aid in the effective administration of this act, any person engaged in the processing of poultry or poultry products and the poultry or poultry products processed by such person; provided, that, no such exemption shall continue in effect more than one hundred twenty (120) days after enactment of this act;

2. persons slaughtering, processing, or otherwise handling poultry or poultry products which have been or are to be processed as required by recognized religious dietary laws, to the extent that the Board determines necessary to avoid conflict with such requirements while still effectuating the purposes of this act;

3. the slaughtering by any person of poultry of his own raising, and the processing by him and transportation of the poultry products exclusively for use by him and members of his household and his nonpaying guests and employees;

4. the custom slaughter by any person of poultry delivered by the owner thereof for such slaughter, and the processing by such slaughterer and transportation of the poultry products exclusively for use, in the household of such owner, by him and members of his household and his nonpaying guests and employees; provided, that, such custom slaughterer does not engage in the business of buying or selling any poultry products capable of use as human food;

5. operations of types traditionally and usually conducted at retail stores and restaurants, when conducted at any retail store or restaurant or similar retail-type establishment for sale in normal retail quantities or service of such articles to consumers at such establishments, if no poultry or poultry products are processed at the establishment for distribution within this state or otherwise subject to inspection under the Federal Poultry Products Inspection Act.

B. The provisions of this act shall not apply to poultry producers with respect to poultry of their own raising on their own farms if

1. such producers slaughter not more than two hundred fifty turkeys, or not more than an equivalent number of birds of all species during the calendar year for which this exemption is being determined, four birds of other species being deemed the equivalent of one turkey;

2. such poultry producers do not engage in buying or selling poultry products other than those produced from poultry raised on their own farms.

C. The adulteration and misbranding provisions of this act, other than the requirement of the inspection legend, shall apply to articles which are exempted from inspection under this section.

D. The Board may by order suspend or terminate any exemption with respect to any person whenever it finds that such action will aid in effectuating the purposes of this act.

Laws 1970, c. 260, § 15, emerg. eff. April 22, 1970.

§2-6-266. Limitation on entry of products into official establishment.

The Board may limit the entry of poultry products and other materials into any official establishment, under such conditions as it may prescribe to assure that allowing the entry of such articles into such inspected establishments will be consistent with the purposes of this act.

Laws 1970, c. 260, § 16, emerg. eff. April 22, 1970.

§2-6-267. Withdrawal or refusal of inspection service.

A. The Board may, for such period, or indefinitely, as it deems necessary to effectuate the purposes of this act, refuse to provide, or withdraw, inspection service under this act with respect to any establishment if it determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection upon this act because the applicant or recipient, or anyone responsibly connected with the applicant or recipient, has been convicted, in any federal or state court, within the previous ten (10) years, of

1. any felony or more than one misdemeanor under any law based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged food or fraud in connection with transactions in food; or

2. any felony, involving fraud, bribery, extortion, or any other act or circumstances indicating a lack of the integrity needed for the conduct of operations affecting the public health. For the purpose of this paragraph, a person shall be deemed to be responsibly

connected with the business if he was a partner, officer, director, holder, or owner of ten percent (10%) or more of its voting stock or employee in a managerial or executive capacity.

B. Upon the withdrawal of inspection service from any official establishment for failure to destroy condemned poultry products as required under Section 6 of this act, or other failure of an official establishment to comply with the requirements as to premises, facilities, or equipment, or the operation thereof, as provided in Section 7 of this act, or the refusal of inspection service to any applicant therefor because of failure to comply with any requirements under Section 7, the applicant for, or recipient of, the service shall, upon request, be afforded opportunity for a hearing with respect to the merits or validity of such action; but such withdrawal or refusal shall continue in effect unless otherwise ordered by the Board.

C. The determination and order of the Board, when made after opportunity for hearing, with respect to withdrawal or refusal of inspection service under this act, shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within thirty (30) days after the effective date of such order in the District Court of Oklahoma County. Judicial review of any such order shall be upon the record upon which the determination and order are based.

Laws 1970, c. 260, § 17, emerg. eff. April 22, 1970.

§2-6-268. Detention of products.

Whenever any poultry product, or any product exempted from the definition of a poultry product, or any dead, dying, disabled or diseased poultry is found by any authorized representatives of the Board upon any premises where it is held for purposes of, or during or after distribution in intrastate commerce, and there is reason to believe that any such article is adulterated or misbranded and is capable of use as human food, or that it has not been inspected, in violation of the provisions of this act or of any other state or federal law, or that it has been, or is intended to be, distributed in violation of any such provisions, it may be detained by such representative for a period not to exceed twenty (20) days, pending action under Section 19 of this act or notification of any federal, state, or other governmental authorities having jurisdiction over such article or poultry, and shall not be moved by any person from the place at which it is located when so detained, until released by such representative. All official marks may be required by such representative to be removed from such article or poultry before it is released unless it appears to the satisfaction of the Board that the article or poultry is eligible to retain such marks.

Laws 1970, c. 260, § 18, emerg. eff. April 22, 1970.

§2-6-269. Seizure and condemnation.

A. Any poultry product, or any dead, dying, disabled, or diseased poultry, that is being transported in intrastate commerce, subject to this act, or is held for sale in this state after such transportation, and that

1. is or has been processed, sold, transported, or otherwise distributed or offered or received for distribution in violation of this act, or

2. is capable of use as human food and is adulterated or misbranded, or

3. in any other way is in violation of this act, shall be liable to be proceeded against and seized and condemned, at any time, on a libel of information in any district court within the jurisdiction of which the article or poultry is found. If the article or poultry is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the treasury of this state, but the article or poultry shall not be sold contrary to the provisions of this act, or the Federal Poultry Products Inspection Act or the Federal Food, Drug, and Cosmetic Act; provided, that, upon the execution and delivery of a good and sufficient bond conditioned that the article or poultry shall not be sold or otherwise disposed of contrary to the provisions of this act or the laws of the United States, the court may direct that such article or poultry be delivered to the owner thereof subject to such supervision by authorized representatives of the Board as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the article or poultry and it is released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the article or poultry. The proceedings in such libel cases shall conform, as nearly as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of this state.

B. The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of this act, or other laws.

Laws 1970, c. 260, § 19, emerg. eff. April 22, 1970.

§2-6-270. Jurisdiction of district courts - Subpoenas.

The district courts are vested with jurisdiction specifically to enforce and to prevent and restrain violations of this act and shall have jurisdiction in all other kinds of cases arising under this act, except as provided in Section 8, subsection D or Section 17 of this act. All proceedings for the enforcement or to restrain violations

of this act shall be by and in the name of this state. Subpoenas for witnesses who are required to attend a court of this state in any district may run into any other district of this state in any such proceeding.

Laws 1970, c. 260, § 20, emerg. eff. April 22, 1970.

§2-6-271. Powers of Board - Penalties.

A. The Board shall also have power:

1. to require the keeping of adequate records and the furnishing of such information upon request to the Board which is necessary and essential for the administration of this act. Failure to keep such records and furnish such information shall constitute a misdemeanor;

2. to gather and compile information concerning and to investigate from time to time the organization, business, conduct, practices, and management of any person engaged in intrastate commerce, and the relation thereof to other persons; B. 1. For the purposes of this act the Board shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person being investigated or proceeded against, and may require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence of any person relating to any matter under investigation. The Board may sign subpoenas and may administer oaths and affirmation, examine witnesses, and receive evidence.

2. Such attendance of witnesses, and the production of such documentary evidence, may be required at any designated place of hearing. In case of disobedience to a subpoena the Board may invoke the aid of any court designated in Section 20 of this act in requiring the attendance and testimony of witnesses and the production of documentary evidence.

3. Any of the courts designated in Section 20 of this act within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear before the Board or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

4. Upon the application of the Attorney General of this state at the request of the Board, the district court shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this act or any order of the Board made in pursuance thereof.

5. The Board may order testimony to be taken by deposition in any proceeding or investigation pending under this act at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Board and having power to

administer oaths. Such testimony shall be reduced to writing by the person taking the deposition or under his direction and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Board as hereinbefore provided.

6. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of this state, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in such courts.

C. 1. It shall be a misdemeanor for any person to willfully neglect or refuse to attend and testify or to answer any lawful inquiry, or to produce documentary evidence, if in his or its power to do so, in obedience to the subpoena or lawful requirement of the Board.

2. Any person that shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this act, or that shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any person subject to this act, or that shall willfully neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions appertaining to the business of any person subject to this act, or that shall willfully remove out of the jurisdiction of this state, or willfully mutilate, alter or by any other means falsify any documentary evidence of any such person, or that shall willfully refuse to submit to the Board or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any person subject to this act in his or its possession or within his or its control, shall be deemed guilty of an offense and shall be subject, upon conviction in any court of competent jurisdiction, to a fine of not more than One Thousand Dollars (\$1,000.00), or to imprisonment for a term of not more than one (1) year, or to both such fine and imprisonment.

3. Any officer or employee of this state who shall make public any information obtained by the Board without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00), or by imprisonment not exceeding six (6) months, or by both such fine and imprisonment, in the discretion of the court.

Laws 1970, c. 260, § 21, emerg. eff. April 22, 1970.

§2-6-272. Application of act.

The requirements, of this act shall apply to persons, establishments, poultry, poultry products and other articles

regulated under the Federal Poultry Products Inspection Act only to the extent provided for in Section 23 of said Federal Act.
Laws 1970, c. 260, § 22, emerg. eff. April 22, 1970.

§2-6-273. Cost of inspection.

The cost of inspection rendered under the requirements of this act shall be borne by this state, except as provided in Section 5 of this act and except that the cost of overtime and holiday work performed in establishments subject to the provisions of this act, at such rates as the Board may determine, shall be borne by such establishments. Sums received by the Board in reimbursement for sums paid out by it for such premium pay work shall be available without fiscal year limitation to carry out the purposes of this section. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this act.
Laws 1970, c. 260, § 23, emerg. eff. April 22, 1970.

§2-6-275. Misdemeanors.

Any violation of this act for which a specific penalty is not given shall be a misdemeanor.
Laws 1970, c. 260, § 25, emerg. eff. April 22, 1970.

§2-6-276. Codification.

This act shall become a part of the Oklahoma Agricultural Code and be codified accordingly.
Laws 1970, c. 260, § 26, emerg. eff. April 22, 1970.

§2-6-280.1. Short Title.

Sections 1 through 15 of this act shall be known and may be cited as the "Oklahoma Rabbit and Rabbit Products Inspection Act".
Added by Laws 1989, c. 170, § 1, operative July 1, 1989.

§2-6-280.2. Purpose.

A. Rabbit and rabbit products are an important source of the nation's total supply of food. It is essential in the public interest that the health and welfare of consumers be protected by assuring that slaughtered rabbit and rabbit products distributed to them are wholesome, not adulterated, and properly marked, labeled, and packaged. Unwholesome, adulterated, or misbranded rabbit or rabbit products are injurious to the public welfare, destroy markets for wholesome, not adulterated, and properly labeled and packaged rabbit and rabbit products, and result in sundry losses to rabbit producers and processors of rabbit and rabbit products, as well as injury to consumers. The unwholesome, adulterated, mislabeled, or deceptively packaged articles can be sold at lower prices and compete unfairly with the wholesome, not adulterated, and properly labeled

and packaged articles, to the detriment of consumers and the public generally.

B. It is hereby declared to be the policy of the Legislature of this state to provide for the inspection of rabbit and rabbit products and otherwise regulate the processing and distribution of such articles to prevent the movement or sale in intrastate commerce of rabbit and rabbit products which are adulterated or misbranded. Added by Laws 1989, c. 170, § 2, operative July 1, 1989.

§2-6-280.3. Definitions.

For the purposes of the Oklahoma Rabbit and Rabbit Products Inspection Act:

1. "Adulterated" shall apply to any carcass, part thereof, rabbit or rabbit products under one or more of the following circumstances:

- a. if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this paragraph if the quantity of such substance in or on such article does not ordinarily render it injurious to health,
- b. if it bears or contains, by reason of administration of any substance to live rabbits or otherwise, any added poisonous or added deleterious substance, other than one which is:
 - (1) a pesticide chemical in or on a raw agricultural commodity,
 - (2) a food additive, or
 - (3) a color additive;which may, in the judgment of the Board, make such article unfit for human food;
- c. if it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of Section 408 of the Federal Food, Drug, and Cosmetic Act,
- d. if it bears or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act,
- e. if it bears or contains any color additive which is unsafe within the meaning of Section 706 of the Federal Food, Drug, and Cosmetic Act. Provided, that an article which is not otherwise deemed adulterated under subparagraph b, c, or d, shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on such article is

prohibited by regulations of the Board in establishments at which inspection is maintained pursuant to the Oklahoma Rabbit and Rabbit Products Inspection Act,

- f. if it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;
- g. if it has been prepared, packed, or held under unsanitary conditions whereby it may become contaminated with filth, or whereby it may have been rendered injurious to health,
- h. if it is, in whole or in part, the product of any rabbit which has died otherwise than by slaughter,
- i. if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health,
- j. if it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to Section 409 of the Federal Food, Drug, and Cosmetic Act, or
- k. if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is;

2. "Board" means the State Board of Agriculture;

3. "Animal food manufacturer" means any person engaged in the business of manufacturing or processing animal food derived wholly or in part from carcasses, or parts or products of the carcasses, of rabbits;

4. "Capable of use as human food" shall apply to any carcass, or part or product of a carcass, of any rabbit, unless it is denatured or otherwise identified as required by regulations prescribed by the Board to deter its use as human food, or it is naturally inedible by humans;

5. "Department" means the Oklahoma State Department of Agriculture;

6. "Federal Meat Inspection Act" means the act so entitled approved March 4, 1907 (34 Stat. 1260) as amended by the Wholesome Meat Act (8 Stat. 584);

7. "Federal Food, Drug, and Cosmetic Act" means the act so entitled, approved June 25, 1938 (52 Stat. 1040), and acts amendatory thereof or supplementary thereto;

8. "Inspection" or "inspection service" means any inspection by an inspector to determine:

- a. the condition and wholesomeness of rabbits,
- b. the condition and wholesomeness of any edible product at any state of the preparation or packaging thereof in the official plant where inspected and certified, or
- c. the condition and wholesomeness of any previously inspected and certified product if such product has not lost its identity as an inspected and certified product;

9. "Inspector" means any person who is duly qualified and certified as an agent of the Oklahoma State Department of Agriculture;

10. "Intrastate commerce" means commerce within this state;

11. "Label" means a display of written, printed, or graphic matter upon any article or the immediate container, not including package liners, of any article;

12. "Labeling" means all labels and other written, printed, or graphic matter:

- a. upon any article or any of its containers or wrappers, or
- b. accompanying such article;

13. "Misbranded" shall apply to any carcass, part thereof, rabbit meat or rabbit product under one or more of the following circumstances:

- a. if its labeling is false or misleading in any particular,
- b. if it is offered for sale under the name of another food,
- c. if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter the name of the food imitated,
- d. if its container is so made, formed, or filled as to be misleading,
- e. unless it bears a label showing:
 - (1) the name and place of business of the manufacturer, packer, or distributor, and
 - (2) an accurate statement of the quantity of the product in terms of weight, measure, or numerical count. Provided, reasonable variations may be permitted, and exemptions as to small packages or articles not in packages or other containers may

be established, by regulations prescribed by the Board;

- f. if any word, statement, or other information required by or under authority of the Oklahoma Rabbit and Rabbit Products Inspection Act to appear on the label or other labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or devices, in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use,
- g. if it purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by regulations of the Board unless:
 - (1) it conforms to such definition and standard, and
 - (2) its label bears the name of the food specified in the definition and standard and, insofar as may be required by such regulations, the common names of optional ingredients, other than spices, flavoring, and coloring, present in such food,
- h. if it purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by regulations of the Board, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard,
- i. if it is not subject to the provisions of subparagraph g unless its label bears:
 - (1) the common or usual name of the food, if any there be, and
 - (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings may, when authorized by the Board, be designated as spices, flavorings, and colorings without naming each. Provided, that to the extent that compliance with the requirements of this division is impracticable, or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Board,
- j. if it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Board, after consultation with the

Secretary of Agriculture of the United States, determines to be, and by regulations prescribes as, necessary in order fully to inform purchasers as to its value for such uses,

- k. if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided, that, to the extent that compliance with the requirements of this subparagraph is impracticable, exemptions shall be established by regulations promulgated by the Board, or
- l. if it fails to bear on its containers, as the Board may by regulations prescribe, the official inspection legend, such other information as the Board may require in such regulations to assure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition;

14. "Official certificate" means any certificate prescribed by regulation of the Board for issuance by an inspector or other person performing official functions pursuant to the Oklahoma Rabbit and Rabbit Products Inspection Act;

15. "Official device" means any device prescribed or authorized by the Board for use in applying any official mark;

16. "Official inspection legend" means any symbol prescribed by regulation of the Board showing that an article was inspected for wholesomeness in accordance with the Oklahoma Rabbit and Rabbit Products Inspection Act;

17. "Official mark" means the official inspection legend or any other symbol prescribed by regulation of the Board to identify the status of any article or rabbit pursuant to the Oklahoma Rabbit and Rabbit Products Inspection Act;

18. "Official plant" or "official establishment" means one or more buildings or parts thereof, comprising a single plant in which the facilities and methods of operation therein have been approved by the Commissioner as suitable and adequate for operation under inspection service;

19. "Person" means any individual, partnership, corporation, association, or other business unit;

20. "Pesticide chemical", "food additive", "color additive", and "raw agricultural commodity" shall have the same meanings for purposes of the Oklahoma Rabbit and Rabbit Products Inspection Act as such term is defined by the Federal Food, Drug, and Cosmetic Act;

21. "Processed" means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured or processed;

22. "Rabbit" means any domesticated rabbit, whether live or dead;

23. "Rabbit product" means any rabbit carcass, or part thereof; or any product which is made wholly or in part from any rabbit carcass or part thereof, excepting products which contain rabbit ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the animal food industry, and which are exempted by the Board from definition as a rabbit product under such conditions as the Board may prescribe to assure that the rabbit ingredients in such products are not adulterated and that such products are not represented as rabbit products;

24. "Rabbit products broker" means any person engaged in the business of buying or selling rabbit products on commission, or otherwise negotiating purchases or sales of such articles other than for his own account or as an employee of another person; and

25. "Renderer" means any person engaged in the business of rendering carcasses, or parts or products of the carcasses, of rabbits.

Added by Laws 1989, c. 170, § 3, operative July 1, 1989.

§2-6-280.4. Board - Powers and duties.

In addition to any powers and duties of the Board, the Board shall have the power and duty to:

1. adopt and promulgate regulations necessary to provide for the proper inspection of rabbit and rabbit products, and prescribe conditions under which carcasses, parts of carcasses, rabbit meat and rabbit products capable of use as human food, shall be stored, labeled, marked or otherwise handled by any person engaged in the business of buying, selling, freezing, storing, or transporting, in or for intrastate commerce;

2. cooperate with the Secretary of Agriculture of the United States in effectuating the purposes of the Oklahoma Rabbit and Rabbit Products Inspection Act;

3. appoint inspectors to make examination and inspection of rabbits, rabbit carcasses, all rabbit meat and rabbit products, and the sanitary conditions of all plants or establishments in which rabbit meat and rabbit products are prepared;

4. detain and seize rabbits or rabbit carcasses or rabbit products pursuant to the provisions of the Oklahoma Rabbit and Rabbit Products Inspection Act;

5. require reports from all persons subject to the provisions of the Oklahoma Rabbit and Rabbit Products Inspection Act;

6. suspend inspection service pursuant to the provisions of the Oklahoma Rabbit and Rabbit Products Inspection Act;

7. establish and enforce administrative penalties pursuant to Section 11-1 of Title 2 of the Oklahoma Statutes;

8. enter upon any public or private property for purposes of inspecting and investigating compliance with the Oklahoma Rabbit and Rabbit Products Inspection Act;

9. refuse to render inspection services to any establishment whose premises, facilities, or equipment, or the operation thereof, fail to meet the requirements of the Oklahoma Rabbit and Rabbit Products Inspection Act;

10. institute or cause to be instituted any necessary legal proceedings with the Office of the Attorney General or in any court of competent jurisdiction for an injunction relief to enforce the provisions of the Oklahoma Rabbit and Rabbit Products Inspection Act; and

11. exercise all incidental powers which are necessary and proper to perform the duties of the Board pursuant to the Oklahoma Rabbit and Rabbit Products Inspection Act.

Added by Laws 1989, c. 170, § 4, operative July 1, 1989.

§2-6-280.5. Application of act - Registration required - Prohibited acts relating to dead, dying, disabled or diseased animals - Requirements to sell rabbit products.

A. The Oklahoma Rabbit and Rabbit Products Inspection Act shall apply to:

1. Any person that engages in the business of slaughtering any rabbits or processing, freezing, packaging, or labeling any carcasses, or parts or products of carcasses, of any rabbit, for intrastate commerce, for use as human food or animal food. The provisions of this paragraph shall not apply to:

- a. the slaughtering of rabbits owned and raised by a person who prepares and transports the carcasses of:
 - (1) rabbits or parts of rabbits exclusively for his own use or for use by members of his household or his nonpaying guests or employees, or
 - (2) rabbits owned and raised by a person who prepares and transports the carcasses of uninspected rabbits or parts of rabbits exclusively for sale directly to household consumers. Said persons are specifically prohibited from selling or donating uninspected rabbit products to retail stores, brokers, meat markets, schools, orphanages, restaurants, nursing homes and similar establishments. Said persons are further prohibited from sales or donation of uninspected rabbit products to caterers, charitable institutions, public fund raising events and similar activities. Said persons are further prohibited from selling uninspected rabbit products through any type of retail market or

similar establishment owned or operated by the rabbit owner or raiser,

- b. except as otherwise provided by this section, any person who slaughters rabbits or processes or otherwise handles rabbit products which have been or are to be processed as required by recognized religious dietary laws.

- (1) Any person desiring such exemption shall make application to the Oklahoma State Department of Agriculture. The application shall be in such form and contain such information as is required by the Board.
- (2) The Board may impose such conditions as to sanitary standards, practices, and procedures in granting such exemption as it deems necessary to effectuate the purposes of the Oklahoma Rabbit and Rabbit Products Inspection Act. Any person who processes rabbit or rabbit products under exemption from certain requirements as provided in this division shall be subject to all of the other applicable provisions of the Oklahoma Rabbit and Rabbit Products Inspection Act and the regulations promulgated pursuant thereto.
- (3) Processing plants shall meet the sanitary requirements set forth in the Oklahoma Rabbit and Rabbit Products Inspection Act and shall be required to qualify for inspection and operate as official establishments;

2. Any person who engages in the business of buying or selling, as rabbit products brokers, wholesalers, or otherwise, or transporting, in intrastate commerce, or storing in or for intrastate commerce, any carcasses, or parts or products of carcasses, of any rabbit; or

3. Any person who engages in business, in or for intrastate commerce, as a renderer, or engages in the business of buying, selling, or transporting, in intrastate commerce, any dead, dying, disabled, or diseased rabbit or parts of the carcasses of any rabbit that died otherwise than by slaughter.

B. 1. Any person who is engaged in business specified in this subsection shall be registered with the Board, in or for intrastate commerce:

- a. as a meat broker, renderer, or animal food manufacturer, or engage in business in such commerce as a wholesaler of any carcasses, or parts or products of the carcasses, of any rabbits whether intended for human food or other purposes; or

- b. as a public warehouseman storing any such articles in or for such commerce, or engage in the business of buying, selling, or transporting in such commerce any dead, dying, disabled, or diseased animals of the specified kinds, or parts of the carcasses of any such animals that died otherwise than by slaughter.

2. The application for registration shall contain the name of such person, address of each place of business at which and all trade names under which such person conducts such business and such other information deemed necessary by the Board.

C. Any person, firm, or corporation who is engaged in the business of buying, selling, or transporting in intrastate commerce dead, dying, disabled, or diseased animals, or any parts of the carcasses of any animals that died otherwise than by slaughter, shall buy, sell, transport, offer for sale or transportation, or receive for transportation, in such commerce, any dead, dying, disabled, or diseased rabbits or parts of the carcasses of any such animals that died otherwise than by slaughter, shall comply with such regulations as the Board prescribes to assure that such animals, or the unwholesome parts or products thereof, will be prevented from being used for human food purposes.

D. On and after September 1, 1989, no rabbit products intended for human food shall be allowed to be sold in this state without:

- 1. first being inspected and approved by:

- a. the United States Department of Agriculture, or
- b. the Oklahoma State Department of Agriculture; or

2. having been legally imported into this state pursuant to existing laws of the federal Food, Drug and Cosmetic Act.

Added by Laws 1989, c. 170, § 5, operative July 1, 1989. Amended by Laws 1990, c. 167, § 1, emerg. eff. May 2, 1990.

§2-6-280.6. Processing plants and equipment - Approval - Application - Inspection - Compliance with act.

A. On and after September 1, 1989:

1. Prior to slaughtering any rabbit or processing any rabbit products at any plant, a person owning or operating such plant shall have the plant approved by the Department.

2. To receive plant approval, a person shall make application to the State Board of Agriculture. As part of the application, the person shall agree to comply with the terms and conditions of the Oklahoma Rabbit and Rabbit Products Inspection Act and any applicable regulations promulgated thereto.

3. Prior to any such approval, the plant and plant equipment shall be inspected by the Department of Agriculture.

4. Upon the approval of the plant and plant equipment by the Department, the plant shall be considered an official plant.

5. No rabbits affected with any disease transmissible to man shall be slaughtered in any official establishment.

B. No establishment or plant processing rabbits or rabbit products solely for intrastate commerce shall process any rabbits or rabbit product capable of use as human food except in compliance with the requirements of the Oklahoma Rabbit and Rabbit Products Inspection Act.

Added by Laws 1989, c. 170, § 6, operative July 1, 1989.

§2-6-280.7. Supervision and rendering of inspection service - Inspection of rabbits processed in official plants.

A. All inspection service shall be subject to supervision at all times by an inspector. Such service shall be rendered where the facilities and conditions are satisfactory for the conduct of the service and the requisite inspectors are available.

B. Rabbits which are processed in official plants in accordance with the Oklahoma Rabbit and Rabbit Products Inspection Act may be inspected.

C. All rabbits that are slaughtered and processed in an official plant where inspection service is maintained shall be inspected for condition and wholesomeness. No dressed or uninspected rabbit products shall be brought into such official plant.

D. Inspection shall not be provided at any establishment for the slaughter of rabbits, or the preparation of any carcasses or parts or products of such animals which are not intended for human food.

Added by Laws 1989, c. 170, § 7, operative July 1, 1989.

§2-6-280.8. Denaturing of rabbits and rabbit products.

A. Any rabbit slaughtered or processed which is not intended for use as human food prior to its offer for sale or transportation in intrastate commerce, unless naturally inedible by humans, shall be denatured or otherwise identified as prescribed by regulations of the Board to deter its use for human food.

B. No person, firm, or corporation shall buy, sell, transport, or offer for sale or transportation, or receive for transportation, in intrastate commerce, any carcasses, parts thereof, meat or meat food products of any rabbits which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the Board or are naturally inedible by humans.

Added by Laws 1989, c. 170, § 8, operative July 1, 1989.

§2-6-280.9. Records - Inspection - Maintenance.

A. All persons subject to the provisions of the Oklahoma Rabbit and Rabbit Products Inspection Act shall keep such records as willfully and correctly disclose all transactions involved in their businesses. All persons, subject to such requirements shall, at all reasonable times, upon notice by a duly authorized representative of

the Board, afford such representative and any duly authorized representative of the Secretary of Agriculture of the United States accompanied by such representative of the Board access to their places of business and opportunity to examine the facilities, inventory, and records thereof, to copy all such records, and to take reasonable samples of their inventory.

B. Any record required to be maintained by this section shall be maintained for such period of time as the Board may by regulations prescribe.

Added by Laws 1989, c. 170, § 9, operative July 1, 1989.

§2-6-280.10. Prohibitions relating to processing, transportation and sale of rabbits.

A. On and after September 1, 1989, no person shall:

1. slaughter any rabbit or process any rabbit products which are capable of use as human food at any establishment processing any such articles solely for intrastate commerce, except in compliance with the requirements of the Oklahoma Rabbit and Rabbit Products Inspection Act; and

2. sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce or from an official establishment, any slaughtered rabbit from which the blood, feet, head, or viscera have not been removed in accordance with regulations promulgated by the Board, except as may be authorized by regulations of the Board.

B. No person shall:

1. sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce:

a. any rabbit products which are capable of use as human food and are adulterated or misbranded at the time of such sale, transportation, offer for sale or transportation, or receipt for transportation, or

b. any rabbit products required to be inspected pursuant to the Oklahoma Rabbit and Rabbit Products Inspection Act unless they have been so inspected and passed;

2. perform any act which is intended to cause or has the effect of causing such rabbit or rabbit products to be adulterated or misbranded;

3. use to his own advantage, or reveal other than to the authorized representatives of the state government or any other government in their official capacity, or as ordered by a court in any judicial proceedings, any information acquired under the authority of the Oklahoma Rabbit and Rabbit Products Inspection Act concerning any matter which is entitled to protection as a trade secret.

C. No brand manufacturer, printer, or other person shall cast, print, lithograph, or otherwise make any device containing any

official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the Board.

D. No person shall:

1. forge any official device, mark, or certificate;

2. without authorization from the Board use any official device, mark, or certificate, or simulation thereof, or alter, detach, deface, or destroy any official device, mark, or certificate including "Oklahoma Rejected" or "Oklahoma Retained" tags;

3. contrary to the regulations prescribed by the Board, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

4. knowingly possess, without promptly notifying the Board or its representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label or any carcass of any rabbit, or part or product thereof, bearing any counterfeit, simulated, forged, or improperly altered official mark;

5. knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the Board; or

6. knowingly represent that any article has been inspected and passed, or exempted, pursuant to the Oklahoma Rabbit and Rabbit Products Inspection Act when, in fact, it has, respectively, not been so inspected and passed, or exempted.

Added by Laws 1989, c. 170, § 10, operative July 1, 1989.

§2-6-280.11. Suspension of plant approval - Denial or withdrawal of inspection service.

A. 1. Any plant approval given pursuant to the Oklahoma Rabbit and Rabbit Products Inspection Act may be suspended by the Department for:

- a. failure to maintain a plant and equipment in a satisfactory state of repair;
- b. failure to maintain plant or equipment in a sanitary manner on a continuing basis;
- c. the use of operating procedure which are not in accordance with the Oklahoma Rabbit and Rabbit Products Inspection Act or regulations promulgated thereto;
- d. alterations of buildings, facilities, or equipment which cannot be approved in accordance with the Oklahoma Rabbit and Rabbit Products Inspection Act or regulations promulgated thereto;
- e. assault on an agency of the Board; or
- f. failure to properly denature condemned and inedible materials.

2. During such period of suspension, inspection service shall not be rendered. However, the other provisions of the Oklahoma Rabbit and Rabbit Products Inspection Act pertaining to providing such service on a resident basis will remain in effect unless such service is terminated in accordance with duly authorized regulations promulgated by the Department. Upon suspension of inspection service in an official plant, the plant approval shall also become suspended, and all labels, seals, tags or packaging material bearing official identification shall be destroyed, or the official identification completely obliterated, or sealed in a manner acceptable to the Department.

B. 1. The Board may refuse to provide, or withdraw, inspection service with respect to any establishment if it determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection because the applicant or recipient, or any person responsibly connected with the applicant or recipient, has been convicted, in any federal or state court of:

- a. any felony, or
- b. more than one violation of any law, other than a felony, based upon the acquiring, handling, or distributing of unwholesome, mislabeled, or deceptively packaged food or upon fraud in connection with transactions in food.

2. This section shall not affect in any way other provisions of the Oklahoma Rabbit and Rabbit Products Inspection Act for withdrawal of inspection services from establishments failing to maintain sanitary conditions or to destroy condemned carcasses, parts, meats or meat food products.

3. For the purpose of this subsection, a person shall be deemed to be responsibly connected with the business if he was a partner, officer, director, holder, or owner of ten percent (10%) or more of its voting stock or employee in a managerial or executive capacity. The determination and order of the Board with respect thereto pursuant to this section shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within thirty (30) days after the effective date of such order in the appropriate court. Judicial review of any such order shall be upon the record upon which the determination and order are based.

Added by Laws 1989, c. 170, § 11, operative July 1, 1989.

§2-6-280.12. Detention of certain rabbits and rabbit products.

A. Whenever any rabbit carcass, part of a carcass, rabbit meat or rabbit product, or any dead, dying, disabled, or diseased rabbit is found by any authorized representative of the Board upon any premises where it is held for purposes of or during or after

distribution in intrastate commerce, and there is reason to believe that any such article is adulterated or misbranded and is capable of use as human food, or that it has not been inspected, in violation of the provisions of the Oklahoma Rabbit and Rabbit Products Inspection Act or of the Federal Meat Inspection Act or the Federal Food, Drug, and Cosmetic Act, or that such article or animal has been or is intended to be distributed in violation of any such provisions, it may be detained by such representative for a period not to exceed twenty (20) days, pending action pursuant to the Oklahoma Rabbit and Rabbit Products Inspection Act or notification of any federal authorities having jurisdiction over such article or animal, and shall not be moved by any person, firm, or corporation from the place at which it is located when so detained, until released by such representative. All official marks may be required by such representative to be removed from such article or animal before it is released unless it appears to the satisfaction of the Board that the article or animal is eligible to retain such marks.

B. 1. Any carcass, part of a carcass, meat or meat food product of rabbits, or any dead, dying, disabled, or diseased rabbits, that is being transported in intrastate commerce, or is held for sale in this state after such transportation, and that:

- a. is or has been prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of the Oklahoma Rabbit and Rabbit Products Inspection Act,
- b. is capable of use as human food and is adulterated or misbranded, or
- c. in any other way is in violation of the Oklahoma Rabbit and Rabbit Products Inspection Act,

may be seized and condemned, at any time, on an information filed in any proper court as provided in the Oklahoma Rabbit and Rabbit Products Inspection Act within the jurisdiction of which the article or animal is found. Any article or animal so condemned shall, after entry of the decree, be destroyed or sold for court costs, and storage and other fees. Any storage and other fees shall be paid into the State Treasury. The article or animal shall not be sold contrary to the provisions of the Oklahoma Rabbit and Rabbit Products Inspection Act, or the Federal Meat Inspection Act or the Federal Food, Drug, and Cosmetic Act.

2. Upon the execution and delivery of a good and sufficient bond conditioned that the article or animal shall not be sold or otherwise disposed of contrary to the provisions of the Oklahoma Rabbit and Rabbit Products Inspection Act, or the laws of the United States, the court may direct that such article or animal be delivered to the owner thereof subject to such supervision by authorized representatives of the Board as is necessary to ensure compliance with the applicable laws. When a decree of condemnation is entered

against the article or animal and it is released under bond or destroyed, court costs and storage and other proper fees shall be awarded against the person, if any, intervening as claimant of the article or animal. The proceedings shall be at the suit of and in the name of this state.

C. The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of the Oklahoma Rabbit and Rabbit Products Inspection Act, or other laws of this state.

Added by Laws 1989, c. 170, § 12, operative July 1, 1989.

§2-6-280.13. Violations - Notice - Hearing - Orders - Service of process.

A. Whenever the Board determines there are reasonable grounds to believe that there has been a violation of any of the provisions of the Oklahoma Rabbit and Rabbit Products Inspection Act, any rule or regulation promulgated thereto, or any order of the Board, it shall give written notice to the alleged violator specifying the cause of complaint. Such notice shall require that the matters complained of be corrected or that the alleged violator appear before the Board at a time and place within the affected area or in a mutually agreeable location specified in the notice and answer the charges. The notice shall be delivered to the alleged violator or violators in accordance with the provisions of subsection D of this section not less than twenty (20) days before the time set for the hearing.

B. The Board shall afford the alleged violator or violators an opportunity for a fair hearing in accordance with the provisions of subsection E of this section. On the basis of the evidence produced at the hearing, the Board shall make findings of fact and conclusions of law and enter an order thereon. The Board shall give written notice of such order to the alleged violator and to such other persons as shall have appeared at the hearing and made written request for notice of the order. If the hearing is held before any person other than the Board itself, such person shall transmit the record of the hearing together with recommendations for findings of fact and conclusions of law to the Board which shall thereupon enter its order. The Board may, in its discretion, enter its order on the basis of such record or, before issuing its order, require additional hearings or further evidence to be presented. The order of the Board shall become final and binding on all parties unless appealed to the district court as provided in Article II of the Administrative Procedures Act within thirty (30) days after notice has been sent to the parties.

C. Whenever the Board finds that an emergency exists requiring immediate action to protect the public health or welfare it may without notice or hearing issue an order reciting the existence of such an emergency and requiring that such action be taken as it deems

necessary to meet the emergency. Notwithstanding the provisions of subsection B of this section, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately but on application to the Board shall be afforded a hearing within ten (10) days. On the basis of such hearing, the Board shall continue such order in effect, revoke it or modify it; provided, that any person aggrieved by such order continued after the hearing provided in this subsection may appeal to the district court of the area affected within thirty (30) days. Such appeal when docketed shall have priority over all cases pending on said docket, except criminal.

D. Except as otherwise expressly provided, any notice, order or other instrument issued by or under authority of the Board may be served on any person affected thereby personally or by publication. Proof of such service shall be made as in case of service of a summons or by publication in a civil action, such proof to be filed in the office of the Board; or such service may be made by mailing a copy of the notice, order or other instrument by registered mail directed to the person affected at his last-known post office address as shown by the files or records of the Board, and proof thereof may be made by the affidavit of the person who did the mailing, filed in the office of the Board.

Every certificate or affidavit of service made and filed as herein provided shall be prima facie evidence of the facts therein stated, and a certified copy thereof shall have like force and effect.

E. The hearings herein provided may be conducted by the Board itself at a regular or special meeting of the Board, or the Board may designate hearing officers who shall have the power and authority to conduct such hearings in the name of the Board at any time and place. Such hearings shall be conducted in conformity with and records made thereof as provided in the Administrative Procedures Act.
Added by Laws 1989, c. 170, § 13, operative July 1, 1989.

§2-6-280.14. Violations - Penalties.

A. Any person who willfully:

1. makes, or causes to be made, any false entry or statement of fact in any report required to be made pursuant to the Oklahoma Rabbit and Rabbit Products Inspection Act;
2. makes, or causes to be made, any false entry in any account, record, or memorandum kept by any person subject to the Oklahoma Rabbit and Rabbit Products Inspection Act;
3. neglects or fails to make, or causes to be made, full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions appertaining to the business of such person;

4. removes out of the jurisdiction of this state, or willfully mutilates, alters, or by any other means falsifies any documentary evidence of any such person; or

5. refuses to submit to the Board or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any such person, firm, or corporation in his possession or within his control, shall be deemed guilty and shall be subject, upon conviction in any court of competent jurisdiction, to a fine of not more than Five Thousand Dollars (\$5,000.00).

B. Any officer or employee of this state who shall make public any information obtained by the Board, without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding Five Thousand Dollars (\$5,000.00).

C. Any person who violates any provision of the Oklahoma Rabbit and Rabbit Products Inspection Act for which no other criminal penalty is provided by the Oklahoma Rabbit and Rabbit Products Inspection Act shall, upon conviction, be subject to a fine of not more than One Thousand Dollars (\$1,000.00).

D. If a violation involved intent to defraud, or any distribution or attempted distribution of an article that is adulterated, such person shall be subject to a fine of not more than Ten Thousand Dollars (\$10,000.00).

Added by Laws 1989, c. 170, § 14, operative July 1, 1989.

§2-6-280.15. Good faith violations - Alternatives to prosecution.

A. No person shall be subject to penalties pursuant to this section for receiving for transportation any article or animal in violation of the Oklahoma Rabbit and Rabbit Products Inspection Act if such receipt was made in good faith, unless such person refuses to furnish on request of a representative of the Board the name and address of the person from whom he received such article or animal, and copies of all documents, if any there be, pertaining to the delivery of the article or animal to him.

B. Nothing in the Oklahoma Rabbit and Rabbit Products Inspection Act shall be construed as requiring the Board to report for prosecution, or for the institution of legal action or injunction proceedings, minor violations of the Oklahoma Rabbit and Rabbit Products Inspection Act whenever it believes that the public interest will be adequately served by a suitable written notice of warning.

Added by Laws 1989, c. 170, § 15, operative July 1, 1989.

§2-6-281. Title.

This act shall be known and may be cited as the "Equine Infectious Anemia Eradication Act".

Laws 1975, c. 347, § 1, emerg. eff. June 12, 1975.

§2-6-282. Definitions.

As used in Section 6-281 et seq. of this title unless the context otherwise requires:

1. "Equine infectious anemia" or "EIA" means the communicable, infectious disease which affects only equidae and is caused by the virus of equine infectious anemia;
 2. "Board" means the State Board of Agriculture;
 3. "Equidae" means a family of perissodactyl ungulate mammals containing a single genus, *Equus*, which includes horses, asses, jacks, jennies, hinnies, mules, donkeys, burros, ponies and zebras;
 4. "Official test" means a test for equine infectious anemia which has been conducted in a laboratory approved by the Board and the United States Department of Agriculture for the purpose of conducting this test or any other test or examination for the detection of equine infectious anemia approved by the Department; and
 5. "Reactor" means any equidae which discloses a positive reaction to an official test for equine infectious anemia.
- Added by Laws 1975, c. 347, § 2, emerg. eff. June 12, 1975. Amended by Laws 2019, c. 72, § 1, eff. Nov. 1, 2019.

§2-6-283. Testing.

Upon request by the Board, all owners of equidae within the State of Oklahoma shall submit their animals for an official test for the detection of equine infectious anemia, or for application of official identification. Such owners shall provide the necessary facilities for conducting tests, or identifying animals, and shall render such assistance as may be required by the Board.

Laws 1975, c. 347, § 3, emerg. eff. June 12, 1975.

§2-6-284. Quarantine.

The Board may quarantine any animal which is determined to be a reactor; such animal shall be quarantined under conditions as specified by the Board. Reactors shall remain under quarantine until their natural death, slaughter or disposition by euthanasia or until released by a written notice from the Board. The Board shall require identification of reactors as deemed necessary.

Laws 1975, c. 347, § 4, emerg. eff. June 12, 1975.

§2-6-285. Shipment restrictions.

The Board may require that all equidae be negative to an official test for equine infectious anemia prior to entry into Oklahoma, or movement within the state.

Laws 1975, c. 347, § 5, emerg. eff. June 12, 1975.

§2-6-286. Rules.

The Board may make and adopt reasonable rules and regulations for the administration and enforcement of this act. The Board, or its representatives, in performing the duties vested in it under this act is empowered to enter, during usual working hours, any premises, barns, stables or other places where equidae are kept, for the purpose of administering this act.

Laws 1975, c. 347, § 6, emerg. eff. June 12, 1975.

§2-6-287. Penalty.

Any person violating any provision of this act or of any rules, regulation or order of the Board issued pursuant to this act is guilty of a misdemeanor.

Laws 1975, c. 347, § 7, emerg. eff. June 12, 1975.

§2-6-290.1. Short title.

Sections 2 through 13 of this act shall be known and may be cited as the "Exotic Livestock and Exotic Livestock Products Inspection Act".

Added by Laws 1991, c. 231, § 1, eff. Sept. 1, 1991.

§2-6-290.2. Legislative findings and policy.

A. Exotic livestock and exotic livestock products are becoming an important source of the nation's supply of food. It is essential in the public interest that the health and welfare of consumers be protected by assuring that slaughtered exotic livestock and exotic livestock products distributed to them are wholesome, not adulterated, and properly marked, labeled, and packaged. Unwholesome, adulterated, or misbranded exotic livestock are injurious to the public welfare, destroy markets for wholesome, not adulterated, and properly labeled and packaged exotic livestock and exotic livestock products, and result in sundry losses to exotic livestock producers and processors of exotic livestock and exotic livestock products, as well as injury to consumers. The unwholesome, adulterated, mislabeled, or deceptively packaged articles can be sold at lower prices and compete unfairly with the wholesome, not adulterated, and properly labeled and packaged articles, to the detriment of consumers and the public generally.

B. It is hereby declared to be the policy of the Legislature of this state to provide for the inspection of exotic livestock and exotic livestock products and otherwise regulate the processing and distribution of such articles to prevent the movement or sale of exotic livestock and exotic livestock products which are adulterated or misbranded.

Added by Laws 1991, c. 231, § 2, eff. Sept. 1, 1991. Amended by Laws 1992, c. 101, § 1, emerg. eff. April 20, 1992.

§2-6-290.3. Definitions.

For the purposes of the Exotic Livestock and Exotic Livestock Products Inspection Act:

1. "Adulterated" shall apply to any carcass, part thereof, exotic livestock or exotic livestock products under one or more of the following circumstances:

- a. if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this paragraph if the quantity of such substance in or on such article does not ordinarily render it injurious to health,
- b. if it bears or contains, by reason of administration of any substance to live exotic livestock or otherwise, any added poisonous or added deleterious substance, other than one which is:
 - (1) a pesticide chemical in or on a raw agricultural commodity,
 - (2) a food additive, or
 - (3) a color additive;which may, in the judgment of the Board, make such article unfit for human food,
- c. if it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of Section 408 of the Federal Food, Drug, and Cosmetic Act,
- d. if it bears or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act,
- e. if it bears or contains any color additive which is unsafe within the meaning of Section 706 of the Federal Food, Drug, and Cosmetic Act. Provided, that an article which is not otherwise deemed adulterated under subparagraph b, c, or d, shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on such article is prohibited by regulations of the Board in establishments at which inspection is maintained pursuant to the Exotic Livestock and Exotic Livestock Products Inspection Act,
- f. if it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food,
- g. if it has been prepared, packed, or held under unsanitary conditions whereby it may become

contaminated with filth, or whereby it may have been rendered injurious to health,

- h. if it is, in whole or in part, the product of any exotic livestock which has died otherwise than by slaughter,
- i. if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health,
- j. if it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to Section 409 of the Federal Food, Drug, and Cosmetic Act, or
- k. if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is;

2. "Board" means the State Board of Agriculture;

3. "Animal food manufacturer" means any person engaged in the business of manufacturing or processing animal food derived wholly or in part from carcasses, or parts or products of the carcasses, of exotic livestock;

4. "Capable of use as human food" shall apply to any carcass, or part or product of a carcass, of any exotic livestock, unless it is identified as required by regulations prescribed by the Board to deter its use as human food, or it is naturally inedible by humans;

5. "Department" means the Oklahoma State Department of Agriculture;

6. "Exotic livestock" means commercially raised livestock including but not limited to animals of the families bovidae, cervidae and antilocapridae or birds of the ratite group;

7. "Federal Meat Inspection Act" means the act so entitled approved March 4, 1907 (34 Stat. 1260) as amended by the Wholesome Meat Act (8 Stat. 584);

8. "Federal Food, Drug, and Cosmetic Act" means the act so entitled, approved June 25, 1938 (52 Stat. 1040), and acts amendatory thereof or supplementary thereto;

9. "Inspection" or "inspection service" means any inspection by an inspector to determine:

- a. the condition and wholesomeness of exotic livestock,
- b. the condition and wholesomeness of any edible product at any state of the preparation or packaging thereof in the official plant where inspected and certified, or

- c. the condition and wholesomeness of any previously inspected and certified product if such product has not lost its identity as an inspected and certified product;

10. "Inspector" means any person who is duly qualified and certified as an agent of the Oklahoma State Department of Agriculture;

11. "Label" means a display of written, printed, or graphic matter upon any article or the immediate container, not including package liners, of any article;

12. "Labeling" means all labels and other written, printed, or graphic matter:

- a. upon any article or any of its containers or wrappers, or
- b. accompanying such article;

13. "Misbranded" shall apply to any carcass, part thereof, exotic livestock meat or exotic livestock product under one or more of the following circumstances:

- a. if its labeling is false or misleading in any particular,
- b. if it is offered for sale under the name of another food,
- c. if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter the name of the food imitated,
- d. if its container is so made, formed, or filled as to be misleading,
- e. unless it bears a label showing:
 - (1) the name and place of business of the manufacturer, packer, or distributor, and
 - (2) an accurate statement of the quantity of the product in terms of weight, measure, or numerical count. Provided, reasonable variations may be permitted, and exemptions as to small packages or articles not in packages or other containers may be established, by regulations prescribed by the Board;
- f. if any word, statement, or other information required by or under authority of the Exotic Livestock and Exotic Livestock Products Inspection Act to appear on the label or other labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or devices, in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use,

- g. if it purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by regulations of the Board unless:
 - (1) it conforms to such definition and standard, and
 - (2) its label bears the name of the food specified in the definition and standard and, insofar as may be required by such regulations, the common names of optional ingredients, other than spices, flavoring, and coloring, present in such food,
- h. if it purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by regulations of the Board, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard,
- i. if it is not subject to the provisions of subparagraph g unless its label bears:
 - (1) the common or usual name of the food, if any there be, and
 - (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings may, when authorized by the Board, be designated as spices, flavorings, and colorings without naming each. Provided, that to the extent that compliance with the requirements of this division is impracticable, or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Board,
- j. if it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Board, after consultation with the Secretary of Agriculture of the United States, determines to be, and by regulations prescribes as, necessary in order fully to inform purchasers as to its value for such uses,
- k. if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided, that, to the extent that compliance with the requirements of this subparagraph is impracticable, exemptions shall be established by regulations promulgated by the Board, or

1. if it fails to bear on its containers, as the Board may by regulations prescribe, the official inspection legend, such other information as the Board may require in such regulations to assure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition;
14. "Official certificate" means any certificate prescribed by regulation of the Board for issuance by an inspector or other person performing official functions pursuant to the Exotic Livestock and Exotic Livestock Products Inspection Act;
15. "Official device" means any device prescribed or authorized by the Board for use in applying any official mark;
16. "Official inspection legend" means any symbol prescribed by regulation of the Board showing that an article was inspected for wholesomeness in accordance with the Exotic Livestock and Exotic Livestock Products Inspection Act;
17. "Official mark" means the official inspection legend or any other symbol prescribed by regulation of the Board to identify the status of any article or exotic livestock pursuant to the Exotic Livestock and Exotic Livestock Products Inspection Act;
18. "Official plant" or "official establishment" means one or more buildings or parts thereof, comprising a single plant in which the facilities and methods of operation therein have been approved by the Board as suitable and adequate for operation under inspection service;
19. "Person" means any individual, partnership, corporation, association, or other business unit;
20. "Pesticide chemical", "food additive", "color additive", and "raw agricultural commodity" shall have the same meanings for purposes of the Exotic Livestock and Exotic Livestock Products Inspection Act as such term is defined by the Federal Food, Drug, and Cosmetic Act;
21. "Processed" means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured or processed;
22. "Product" means any carcass of exotic livestock, or part thereof; or any product which is made wholly or in part from any carcass of exotic livestock or part thereof, excepting products which contain exotic livestock ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the animal food industry, and which are exempted by the Board from definition as an exotic livestock product under such conditions as the Board may prescribe to assure that the exotic livestock ingredients in such products are not adulterated and that such products are not represented as exotic livestock products;
23. "Exotic livestock broker" means any person engaged in the business of buying or selling exotic livestock products on

commission, or otherwise negotiating purchases or sales of such articles other than for his own account or as an employee of another person; and

24. "Renderer" means any person engaged in the business of rendering carcasses, or parts or products of the carcasses, of exotic livestock.

Added by Laws 1991, c. 231, § 3, eff. Sept. 1, 1991. Amended by Laws 1992, c. 101, § 2, emerg. eff. April 20, 1992.

§2-6-290.4. Board - Powers and duties.

In addition to any powers and duties of the Board provided for by law, the Board shall have the power and duty to:

1. Adopt and promulgate regulations necessary to provide for the proper inspection of exotic livestock and exotic livestock products, and prescribe conditions under which carcasses, parts of carcasses, exotic livestock meat and exotic livestock products capable of use as human food, shall be stored, labeled, marked or otherwise handled by any person engaged in the business of buying, selling, freezing, storing, or transporting, in or for intrastate commerce;

2. Cooperate with the Secretary of Agriculture of the United States in effectuating the purposes of the Exotic Livestock and Exotic Livestock Products Inspection Act;

3. Appoint inspectors to make examination and inspection of exotic livestock, exotic livestock carcasses, all exotic livestock meat and exotic livestock products, and the sanitary conditions of all plants or establishments in which exotic livestock meat and exotic livestock products are prepared;

4. Detain and seize exotic livestock or exotic livestock carcasses or exotic livestock products pursuant to the provisions of the Exotic Livestock and Exotic Livestock Products Inspection Act;

5. Require reports from all persons subject to the provisions of the Exotic Livestock and Exotic Livestock Products Inspection Act;

6. Suspend inspection service pursuant to the provisions of the Exotic Livestock and Exotic Livestock Products Inspection Act;

7. Establish and enforce administrative penalties pursuant to Section 11-1 of Title 2 of the Oklahoma Statutes;

8. Enter upon any public or private property for purposes of inspecting and investigating compliance with the Exotic Livestock and Exotic Livestock Products Inspection Act;

9. Refuse to render inspection services to any establishment whose premises, facilities, or equipment, or the operation thereof, fail to meet the requirements of the Exotic Livestock and Exotic Livestock Products Inspection Act;

10. Institute or cause to be instituted any necessary legal proceedings with the Office of the Attorney General or in any court of competent jurisdiction for an injunction relief to enforce the

provisions of the Exotic Livestock and Exotic Livestock Products Inspection Act; and

11. Exercise all incidental powers which are necessary and proper to perform the duties of the Board pursuant to the Exotic Livestock and Exotic Livestock Products Inspection Act.

Added by Laws 1991, c. 231, § 4, eff. Sept. 1, 1991.

§2-6-290.5. Application of act - Registration with Board - Dead, dying, disabled or diseased animals - Prerequisites for sale.

A. The Exotic Livestock and Exotic Livestock Products Inspection Act shall apply to:

1. Any person that engages in the business of slaughtering any exotic livestock or processing, freezing, packaging, or labeling any carcasses, or parts or products of carcasses, of any exotic livestock for use as human food or animal food. The provisions of this paragraph shall not apply to:

- a. the slaughtering of exotic livestock owned and raised by a person who prepares and transports the carcasses of exotic livestock or parts of exotic livestock exclusively for his own use or for use by members of his household or his nonpaying guests or employees, or
- b. except as otherwise provided by this section, any person who slaughters exotic livestock or processes or otherwise handles exotic livestock products which have been or are to be processed as required by recognized religious dietary laws.
 - (1) Any person desiring such exemption shall make application to the Oklahoma State Department of Agriculture. The application shall be in such form and contain such information as is required by the Board.
 - (2) The Board may impose such conditions as to sanitary standards, practices, and procedures in granting such exemption as it deems necessary to effectuate the purposes of the Exotic Livestock and Exotic Livestock Products Inspection Act. Any person who processes exotic livestock or exotic livestock products under exemption from certain requirements as provided in this division shall be subject to all of the other applicable provisions of the Exotic Livestock and Exotic Livestock Products Inspection Act and the regulations promulgated pursuant thereto.
 - (3) Processing plants shall meet the sanitary requirements set forth in the Exotic Livestock and Exotic Livestock Products Inspection Act and shall

be required to qualify for inspection and operate as official establishments;

2. Any person who engages in the business of buying or selling, as exotic livestock products brokers, wholesalers, or otherwise, or transporting or storing any carcasses, or parts or products of carcasses, of any exotic livestock; or

3. Any person who engages in business as a renderer, or engages in the business of buying, selling, or transporting any dead, dying, disabled, or diseased exotic livestock or parts of the carcasses of any exotic livestock that died otherwise than by slaughter.

B. 1. Any person who is engaged in business specified in this subsection shall be registered with the Board:

- a. as a meat broker, renderer, or animal food manufacturer, or engage in business in such commerce as a wholesaler of any carcasses, or parts or products of the carcasses, of any exotic livestock whether intended for human food or other purposes; or
- b. as a public warehouseman storing any such articles in or for such commerce, or engage in the business of buying, selling, or transporting in such commerce any dead, dying, disabled, or diseased animals of the specified kinds, or parts of the carcasses of any such animals that died otherwise than by slaughter.

2. The application for registration shall contain the name of such person, address of each place of business at which and all trade names under which such person conducts such business and such other information deemed necessary by the Board.

C. Any person, firm, or corporation who is engaged in the business of buying, selling, or transporting dead, dying, disabled, or diseased animals, or any parts of the carcasses of any animals that died otherwise than by slaughter, shall buy, sell, transport, offer for sale or transportation, or receive for transportation, in such commerce, any dead, dying, disabled, or diseased exotic livestock or parts of the carcasses of any such animals that died otherwise than by slaughter, shall comply with such regulations as the Board prescribes to assure that such animals, or the unwholesome parts or products thereof, will be prevented from being used for human food purposes.

D. On and after September 1, 1991, no exotic livestock products intended for human food shall be allowed to be sold in this state without:

1. First being inspected and approved by:
 - a. the United States Department of Agriculture,
 - b. the Oklahoma State Department of Agriculture, or
 - c. a program from another state approved by the Board; or
2. Having been legally imported into this state pursuant to existing laws of the Federal Food, Drug and Cosmetic Act.

Added by Laws 1991, c. 231, § 5, eff. Sept. 1, 1991. Amended by Laws 1992, c. 101, § 3, emerg. eff. April 20, 1992.

§2-6-290.6. Operation of slaughtering plant - Approval of plant - Compliance with act.

A. On and after September 1, 1991:

1. Prior to slaughtering any exotic livestock or processing any exotic livestock products at any plant, a person owning or operating such plant shall have the plant approved by the Department.

2. To receive plant approval, a person shall make application to the State Board of Agriculture. As part of the application, the person shall agree to comply with the terms and conditions of the Exotic Livestock and Exotic Livestock Products Inspection Act and any applicable regulations promulgated thereto.

3. Prior to any such approval, the plant and plant equipment shall be inspected by the Department of Agriculture.

4. Upon the approval of the plant and plant equipment by the Department, the plant shall be considered an official plant.

B. No establishment or plant processing exotic livestock or exotic livestock products shall process any exotic livestock or exotic livestock product capable of use as human food except in compliance with the requirements of the Exotic Livestock and Exotic Livestock Products Inspection Act.

Added by Laws 1991, c. 231, § 6, eff. Sept. 1, 1991. Amended by Laws 1992, c. 101, § 4, emerg. eff. April 20, 1992.

§2-6-290.7. Inspection service and inspections.

A. All inspection service shall be subject to supervision at all times by an inspector. Such service shall be rendered where the facilities and conditions are satisfactory for the conduct of the service and the requisite inspectors are available.

B. Exotic livestock which is processed in official plants in accordance with the Exotic Livestock and Exotic Livestock Products Inspection Act may be inspected.

C. All exotic livestock that is slaughtered and processed in an official plant where inspection service is maintained shall be inspected for condition and wholesomeness. No dressed or uninspected exotic livestock products shall be brought into such official plant.

D. Inspection shall not be provided at any establishment for the slaughter of exotic livestock, or the preparation of any carcasses or parts or products of such animals which are not intended for human food.

Added by Laws 1991, c. 231, § 7, eff. Sept. 1, 1991.

§2-6-290.8. Records.

A. All persons subject to the provisions of the Exotic Livestock and Exotic Livestock Products Inspection Act shall keep such records

as willfully and correctly disclose all transactions involved in their businesses. All persons, subject to such requirements shall, at all reasonable times, upon notice by a duly authorized representative of the Board, afford such representative and any duly authorized representative of the Secretary of Agriculture of the United States accompanied by such representative of the Board access to their places of business and opportunity to examine the facilities, inventory, and records thereof, to copy all such records, and to take reasonable samples of their inventory.

B. Any record required to be maintained by this section shall be maintained for such period of time as the Board may by regulations prescribe.

Added by Laws 1991, c. 231, § 8, eff. Sept. 1, 1991.

§2-6-290.9. Unlawful acts.

A. On and after September 1, 1991, no person shall:

1. Slaughter any exotic livestock or process any exotic livestock products which are capable of use as human food at any establishment processing any such articles solely for intrastate commerce, except in compliance with the requirements of the Exotic Livestock and Exotic Livestock Products Inspection Act; and

2. Sell, transport, offer for sale or transportation, or receive for transportation from an official establishment, any slaughtered exotic livestock from which the blood, feet, head, or viscera have not been removed in accordance with regulations promulgated by the Board, except as may be authorized by regulations of the Board.

B. No person shall:

1. Sell, transport, offer for sale or transportation, or receive for transportation:

a. any exotic livestock products which are capable of use as human food and are adulterated or misbranded at the time of such sale, transportation, offer for sale or transportation, or receipt for transportation, or

b. any exotic livestock products required to be inspected pursuant to the Exotic Livestock and Exotic Livestock Products Inspection Act unless they have been so inspected and passed;

2. Perform any act which is intended to cause or has the effect of causing such exotic livestock or exotic livestock products to be adulterated or misbranded;

3. Use to his own advantage, or reveal other than to the authorized representatives of the state government or any other government in their official capacity, or as ordered by a court in any judicial proceedings, any information acquired under the authority of the Exotic Livestock and Exotic Livestock Products Inspection Act concerning any matter which is entitled to protection as a trade secret.

C. No brand manufacturer, printer, or other person shall cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the Board.

D. No person shall:

1. Forge any official device, mark, or certificate;

2. Without authorization from the Board use any official device, mark, or certificate, or simulation thereof, or alter, detach, deface, or destroy any official device, mark, or certificate including "Oklahoma Rejected" or "Oklahoma Retained" tags;

3. Contrary to the regulations prescribed by the Board, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

4. Knowingly possess, without promptly notifying the Board or its representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label or any carcass of any exotic livestock, or part or product thereof, bearing any counterfeit, simulated, forged, or improperly altered official mark;

5. Knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the Board; or

6. Knowingly represent that any article has been inspected and passed, or exempted, pursuant to the Exotic Livestock and Exotic Livestock Products Inspection Act when, in fact, it has not been so inspected and passed, or exempted.

Added by Laws 1991, c. 231, § 9, eff. Sept. 1, 1991. Amended by Laws 1992, c. 101, § 5, emerg. eff. April 20, 1992.

§2-6-290.10. Suspension of plant approval - Grounds - Refusal to provide or withdrawal of inspection service.

A. 1. Any plant approval given pursuant to the Exotic Livestock and Exotic Livestock Products Inspection Act may be suspended by the Department for:

- a. failure to maintain a plant and equipment in a satisfactory state of repair;
- b. failure to maintain plant or equipment in a sanitary manner on a continuing basis;
- c. the use of operating procedure which are not in accordance with the Exotic Livestock and Exotic Livestock Products Inspection Act or regulations promulgated thereto;
- d. alterations of buildings, facilities, or equipment which cannot be approved in accordance with the Exotic Livestock and Exotic Livestock Products Inspection Act or regulations promulgated thereto;

- e. assault on an agent of the Board; or
- f. failure to properly denature condemned and inedible materials.

2. During such period of suspension, inspection service shall not be rendered. However, the other provisions of the Exotic Livestock and Exotic Livestock Products Inspection Act pertaining to providing such service on a resident basis will remain in effect unless such service is terminated in accordance with duly authorized regulations promulgated by the Department. Upon suspension of inspection service in an official plant, the plant approval shall also become suspended, and all labels, seals, tags or packaging material bearing official identification shall be destroyed, or the official identification completely obliterated, or sealed in a manner acceptable to the Department.

B. 1. The Board may refuse to provide, or withdraw, inspection service with respect to any establishment if it determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection because the applicant or recipient, or any person responsibly connected with the applicant or recipient, has been convicted, in any federal or state court of:

- a. any felony, or
- b. more than one violation of any law, other than a felony, based upon the acquiring, handling, or distributing of unwholesome, mislabeled, or deceptively packaged food or upon fraud in connection with transactions in food.

2. This section shall not affect in any way other provisions of the Exotic Livestock and Exotic Livestock Products Inspection Act for withdrawal of inspection services from establishments failing to maintain sanitary conditions or to destroy condemned carcasses, parts, meats or meat food products.

3. For the purpose of this subsection, a person shall be deemed to be responsibly connected with the business if he was a partner, officer, director, holder, or owner of ten percent (10%) or more of its voting stock or employee in a managerial or executive capacity. The determination and order of the Board with respect thereto pursuant to this section shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within thirty (30) days after the effective date of such order in the appropriate court. Judicial review of any such order shall be upon the record upon which the determination and order are based.

Added by Laws 1991, c. 231, § 10, eff. Sept. 1, 1991.

§2-6-290.11. Violations - Complaints - Notice - Hearings - Orders - Emergencies - Service of notice or other instrument.

A. Whenever the Board determines there are reasonable grounds to believe that there has been a violation of any of the provisions of the Exotic Livestock and Exotic Livestock Products Inspection Act, any rule or regulation promulgated thereto, or any order of the Board, it shall give written notice to the alleged violator specifying the cause of complaint. Such notice shall require that the matters complained of be corrected or that the alleged violator appear before the Board at a time and place specified in the notice and answer the charges. The notice shall be delivered to the alleged violator or violators in accordance with the provisions of subsection D of this section not less than twenty (20) days before the time set for the hearing.

B. The Board shall afford the alleged violator or violators an opportunity for a fair hearing in accordance with the provisions of subsection E of this section. On the basis of the evidence produced at the hearing, the Board shall make findings of fact and conclusions of law and enter an order thereon. The Board shall give written notice of such order to the alleged violator and to such other persons as shall have appeared at the hearing and made written request for notice of the order. If the hearing is held before any person other than the Board itself, such person shall transmit the record of the hearing together with recommendations for findings of fact and conclusions of law to the Board which shall thereupon enter its order. The Board may, in its discretion, enter its order on the basis of such record or, before issuing its order, require additional hearings or further evidence to be presented. The order of the Board shall become final and binding on all parties unless appealed to the district court as provided in Article II of the Administrative Procedures Act within thirty (30) days after notice has been sent to the parties.

C. Whenever the Board finds that an emergency exists requiring immediate action to protect the public health or welfare it may without notice or hearing issue an order reciting the existence of such an emergency and requiring that such action be taken as it deems necessary to meet the emergency. Notwithstanding the provisions of subsection B of this section, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately but on application to the Board shall be afforded a hearing within ten (10) days. On the basis of such hearing, the Board shall continue such order in effect, revoke it or modify it; provided, that any person aggrieved by such order continued after the hearing provided in this subsection may appeal to the district court of the area affected within thirty (30) days. Such appeal when docketed shall have priority over all cases pending on said docket, except criminal.

D. Except as otherwise expressly provided, any notice, order or other instrument issued by or under authority of the Board may be

served on any person affected thereby personally or by publication. Proof of such service shall be made as in case of service of a summons or by publication in a civil action, such proof to be filed in the office of the Board; or such service may be made by mailing a copy of the notice, order or other instrument by registered mail directed to the person affected at his last-known post office address as shown by the files or records of the Board, and proof thereof may be made by the affidavit of the person who did the mailing, filed in the office of the Board.

Every certificate or affidavit of service made and filed as herein provided shall be prima facie evidence of the facts therein stated, and a certified copy thereof shall have like force and effect.

E. The hearings herein provided may be conducted by the Board itself at a regular or special meeting of the Board, or the Board may designate hearing officers who shall have the power and authority to conduct such hearings in the name of the Board at any time and place. Such hearings shall be conducted in conformity with and records made thereof as provided in the Administrative Procedures Act.

Added by Laws 1991, c. 231, § 11, eff. Sept. 1, 1991. Amended by Laws 1992, c. 101, § 6, emerg. eff. April 20, 1992.

§2-6-290.12. Violations - Penalties.

A. Any person who willfully:

1. Makes, or causes to be made, any false entry or statement of fact in any report required to be made pursuant to the Exotic Livestock and Exotic Livestock Products Inspection Act;

2. Makes, or causes to be made, any false entry in any account, record, or memorandum kept by any person subject to the Exotic Livestock and Exotic Livestock Products Inspection Act;

3. Neglects or fails to make, or causes to be made, full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions appertaining to the business of such person;

4. Removes out of the jurisdiction of this state, or willfully mutilates, alters, or by any other means falsifies any documentary evidence of any such person; or

5. Refuses to submit to the Board or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any such person, firm, or corporation in his possession or within his control;

shall be deemed guilty and shall be subject, upon conviction in any court of competent jurisdiction, to a fine of not more than Five Thousand Dollars (\$5,000.00).

B. Any officer or employee of this state who shall make public any information obtained by the Board, without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and,

upon conviction thereof, shall be punished by a fine not exceeding Five Thousand Dollars (\$5,000.00).

C. Any person who violates any provision of the Exotic Livestock and Exotic Livestock Products Inspection Act for which no other criminal penalty is provided by the Exotic Livestock and Exotic Livestock Products Inspection Act shall, upon conviction, be subject to a fine of not more than One Thousand Dollars (\$1,000.00).

D. If a violation involved intent to defraud, or any distribution or attempted distribution of an article that is adulterated, such person shall be subject to a fine of not more than Ten Thousand Dollars (\$10,000.00).

Added by Laws 1991, c. 231, § 12, eff. Sept. 1, 1991.

§2-6-290.13. Penalties - Limitations on application - Minor violations.

A. No person shall be subject to penalties pursuant to this section for receiving for transportation any article or animal in violation of the Exotic Livestock and Exotic Livestock Products Inspection Act if such receipt was made in good faith, unless such person refuses to furnish on request of a representative of the Board the name and address of the person from whom he received such article or animal, and copies of all documents, if any there be, pertaining to the delivery of the article or animal to him.

B. Nothing in the Exotic Livestock and Exotic Livestock Products Inspection Act shall be construed as requiring the Board to report for prosecution, or for the institution of legal action or injunction proceedings, minor violations of the Exotic Livestock and Exotic Livestock Products Inspection Act whenever it believes that the public interest will be adequately served by a suitable written notice of warning.

Added by Laws 1991, c. 231, § 13, eff. Sept. 1, 1991.

§2-6-291. Exotic livestock disease control - Official agency.

A. The State Board of Agriculture shall be the official exotic livestock disease control agency of the State of Oklahoma, and shall have the authority to issue and enforce rules governing the movement and testing of exotic livestock as defined in Section 6-290.3 of this title, in intrastate commerce with regards to disease emergency, disease control, or disease eradication.

B. The Board shall have the authority to issue and enforce rules governing the movement and testing of exotic livestock as defined by Section 6-290.3 of this title, in interstate commerce as required or allowed by federal law.

C. In addition to requirements established by the Board, no person shall release exotic livestock under the jurisdiction of the Board into the wilds of Oklahoma without first obtaining written

permission of the Director of the Oklahoma Wildlife Conservation Commission.

Added by Laws 1994, c. 5, § 1, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 65, emerg. eff. June 6, 2000.

§2-6-301. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-6-302. Disease eradication and control - Inspecting and examining vehicles - Issuing citations - Agents' satisfactory completion of courses.

A. To enable the State Board of Agriculture to implement its duties and responsibilities regarding disease eradication and control of livestock and theft of livestock, and of farming equipment and farm implements, authorized agents of the Board are authorized to stop a vehicle transporting any livestock or farming equipment or farm implement for the purposes of inspecting and examining:

1. Livestock being transported;
2. The documents relating to the health, ownership, or destination of the livestock; and
3. Ownership documents or serial or identification numbers relating to farming equipment or farm implements.

B. 1. Agents of the Board are authorized to issue citations to those persons committing violations of the laws relating to the control and eradication of disease in livestock in this state.

2. Each violation relating to the transportation of livestock, and any required documentation regarding disease eradication and control of livestock being transported may result in a citation not to exceed Five Hundred Dollars (\$500.00) per incident. Each citation issued shall indicate the name of the owner of the livestock being transported, as well as the name of the driver of the vehicle.

3. If an owner or driver receives three citations for violations of this subsection within a consecutive three-year period, the owner or driver may be subject to citations not to exceed One Thousand Dollars (\$1,000.00) for any subsequent violations of this subsection.

C. The authorized agents designated to stop vehicles and issue citations shall be required to satisfactorily complete those courses offered by law enforcement agencies as are required by the Board.

Added by Laws 1987, c. 132, § 2, emerg. eff. June 3, 1987. Amended by Laws 2000, c. 367, § 66, emerg. eff. June 6, 2000; Laws 2001, c. 430, § 4, eff. Nov. 1, 2001.

§2-6-303. Livestock trailers to be identified by number or driver license number.

A. It shall be unlawful to operate any trailer, not otherwise required to be licensed by law, which is used for the hauling of

livestock upon the roads or highways of the State of Oklahoma unless that trailer bears an identifying number.

B. Trailers owned by individual persons shall be identified with the driver license number of the owner. Trailers owned by corporations, partnerships, and other associations or owned by a person who has no driver license shall be identified with numbers as designated by rules of the State Board of Agriculture with advice from the Oklahoma Department of Public Safety.

C. The identifying number shall be in Arabic numerals in a contrasting color of not less than two (2) inches high painted or otherwise affixed to the rear of the trailer so it is clearly visible from the rear at all times and in a manner as to reasonably assure against alteration or destruction.

D. The State Board of Agriculture may promulgate rules, and with the advice of the Oklahoma Department of Public Safety, direct the affixing of identifying numbers to livestock trailers.

E. It shall be unlawful to alter a livestock trailer identifying number other than to comply with this subarticle or rules issued pursuant to this subarticle.

F. No fee shall be charged for the issuance of any trailer identification number required by this subarticle.

Added by Laws 1974, c. 88, § 1, eff. Jan. 1, 1975. Amended by Laws 2001, c. 146, § 76, emerg. eff. April 30, 2001. Renumbered from § 1601 of this title by Laws 2001, c. 146, § 254, emerg. eff. April 30, 2001.

§2-6-304. Penalties.

Any person who violates the provisions of Section 6-303 of this title by failing to properly display the proper number shall be guilty of a misdemeanor and upon conviction thereof subject to a fine not to exceed Ten Dollars (\$10.00). Any person who alters a vehicle identifying number in violation of Section 6-303 of this title, or rules issued pursuant to Section 6-303 of this title, upon conviction thereof, shall be guilty of a misdemeanor.

Added by Laws 1974, c. 88, § 2, eff. Jan. 1, 1975. Amended by Laws 2001, c. 146, § 77, emerg. eff. April 30, 2001. Renumbered from § 1602 of this title by Laws 2001, c. 146, § 254, emerg. eff. April 30, 2001.

§2-6-310. Agriculture law enforcement agents.

A. The Commissioner of the State Board of Agriculture may commission, subject to the approval of the Board, agriculture law enforcement agents.

B. Agriculture law enforcement agents, when commissioned, shall:

1. Have all the powers of peace officers except the serving or execution of civil process other than the execution of civil process related to the Oklahoma Agricultural Code;

2. Have in all parts of the state the same powers with respect to criminal matters and enforcement of the laws relating thereto as sheriffs, highway patrol, and police officers in their respective jurisdictions;

3. Enforce the civil, criminal, and administrative provisions relating to livestock theft, animal health and importation statutes and theft of farming equipment and farm implements, as well as any other law contained in the Oklahoma Agricultural Code;

4. Possess all immunities and matters of defense now available or hereafter made available to sheriffs, highway patrol and police officers in any suit brought against them in consequence of acts done in the course of their employment; and

5. Comply with the provisions of Section 3311 of Title 70 of the Oklahoma Statutes.

C. Agriculture law enforcement agents specifically:

1. Are vested with the power and authority of sheriffs in making arrests for violations of the Oklahoma Agricultural Code and in the enforcement of nonagriculture-related crimes in cooperation with other law enforcement officers and agencies as authorized by the Board and approved by the Governor of the State of Oklahoma;

2. May take into possession any farming equipment or farm implement and any and all livestock, or any part thereof, killed, taken, shipped or had in possession contrary to the law. Such livestock or parts thereof may be disposed of as determined by the Commissioner or any court of competent jurisdiction;

3. May make a complaint and cause proceedings to be commenced against any person for violation of any of the laws relating to the Oklahoma Agricultural Code or relating to theft of livestock and of farming equipment or farm implements, with the sanction of the prosecuting or district attorney of the county in which the proceedings are brought, and shall not be required to give security for costs;

4. In connection with the enforcement of the civil, criminal, and administrative provisions, shall have the express authority to stop the transportation or movement of any animal or farming equipment or farm implement within this state and shall have the right to enter upon all premises, posted, or otherwise, when necessary for enforcement of the laws of this state;

5. Shall be under the control and direction of the Commissioner. The Commissioner may, at any time, remove any powers or authority of arrest conferred by the Commissioner; and

6. Shall have the right to carry firearms as authorized by the Commissioner.

Added by Laws 2001, c. 430, § 5, eff. Nov. 1, 2001. Amended by Laws 2007, c. 157, § 3, eff. Nov. 1, 2007.

§2-6-311. License - Construction of act - Restricted aquatic species.

A. No person may engage in the private commercial production of catfish, minnows, fingerlings, fish, frogs, or other aquatic species without having first procured a license from the State Board of Agriculture.

B. The initial fee for a license issued pursuant to the provisions of this section, and the annual fee for the renewal of such license, shall be Ten Dollars (\$10.00).

C. All licenses may be renewed so long as the applicant remains in operation, in the production of a particular aquatic species and in compliance with the provisions of this act and rules promulgated thereto.

D. Nothing in this act shall be construed to authorize the importation or exportation of minnows and other fish species that are subject to the provisions of Sections 4-105, 4-115, and 7-602 of Title 29 of the Oklahoma Statutes.

E. No license shall be issued by the Oklahoma Department of Agriculture, Food, and Forestry pursuant to the provisions of this section for any restricted aquatic species designated by rules promulgated by the Oklahoma Wildlife Conservation Commission.
Added by Laws 2002, c. 295, § 1, eff. Nov. 1, 2002.

§2-6-312. Technical assistance.

A. The Oklahoma Department of Agriculture, Food, and Forestry may provide technical assistance to persons legally engaged in the private commercial production of catfish, minnows, fingerlings, fish, frogs and other aquatic species pursuant to the provisions of this act. Such technical assistance shall be limited to recommendations and in no instance shall the Department provide any assistance or any funds to effectuate or implement such recommendations.

B. Reasonable fees, as determined by the State Board of Agriculture, may be charged by the Department for salary, expenses, and supplies of Department employees providing technical assistance.
Added by Laws 2002, c. 295, § 2, eff. Nov. 1, 2002.

§2-6-313. Confinement and separation from wild species.

A. All catfish, minnows, fingerlings, fish, frogs, and other aquatic species which are legally produced, pursuant to the provisions of this act, shall be confined to the lands and waters of the licensee in such a manner so as to prohibit:

1. Contact with wild fish or other aquatic species in public waters; and

2. Such wild fish or other aquatic species in public waters from becoming a part of the commercial production.

B. 1. Except as otherwise provided by this subsection, the Oklahoma Department of Agriculture, Food, and Forestry shall not

restrict the manner in which persons, licensed pursuant to this act, gather or impound aquatic species raised within the impoundments in their commercial operations.

2. No person shall sell or attempt to sell game fish and/or paddlefish obtained from public waters that have been commingled with privately produced fish subject to the provisions of this act.

C. No licensee may receive, free of charge, any catfish, minnow, fingerling, fish, frog or other aquatic species from the state or federal government.

Added by Laws 2002, c. 295, § 3, eff. Nov. 1, 2002.

§2-6-314. Inspections - Summary of aquatic species produced and marketed.

A. 1. a. Any duly authorized representative of the Oklahoma Department of Agriculture, Food, and Forestry shall have the power to inspect, at reasonable times, records, facilities and operations of any person engaging in the commercial production of catfish, minnows, fingerlings, fish, frogs and other aquatic species in order to determine whether or not diseased species, that could cause such species to contaminate wild fish, exist in the impoundments.

b. If diseased conditions exist, the Oklahoma Department of Agriculture, Food, and Forestry may require the removal or the treatment of the diseased species to prevent contamination of wild fish.

2. Any duly authorized representative of the Department of Wildlife Conservation shall have the power to inspect, at reasonable times, records, facilities and operations of any person engaging in the commercial production of catfish, minnows, fingerlings, fish, frogs and other aquatic species in order to determine if the commercial operation is in compliance with the Oklahoma Wildlife Conservation Code and rules promulgated thereto. Any person found or alleged to be in violation of the Oklahoma Wildlife Conservation Code or rules promulgated thereto shall be subject to the provisions of the Oklahoma Wildlife Conservation Code.

B. A licensee shall be present during any inspection authorized pursuant to the provisions of this section. In addition, the licensee shall cooperate with the Oklahoma Department of Agriculture, Food, and Forestry and the Department of Wildlife Conservation in performing such licensee's duties pursuant to the provisions of this act.

C. Any licensee subject to the provisions of this act shall submit to the Oklahoma Department of Agriculture, Food, and Forestry an annual summary of the number of catfish, minnows, fingerlings, fish, frogs and other aquatic species produced and marketed by the commercial operation and any other information as requested by the

Department. The summary shall be submitted to the Department at such time and in such manner as is required by the Department.

Added by Laws 2002, c. 295, § 4, eff. Nov. 1, 2002.

§2-6-315. Decals.

A. 1. Each vehicle used to transport private commercially produced catfish, minnows, fingerlings, fish, frogs or other aquatic species shall be marked conspicuously by decals bearing the inscription "Aquatic Culture".

2. The decals shall be located on each side of the hauling unit.

B. The decals shall be furnished by the Oklahoma Department of Agriculture, Food, and Forestry at a reasonable cost per decal payable by the owner of the vehicle hauling the aquatic species.

Added by Laws 2002, c. 295, § 5, eff. Nov. 1, 2002.

§2-6-316. Application for license - Proofs required - Revocation.

A. 1. All persons applying for a license to commercially produce catfish, minnows, fingerlings, fish, frogs or other aquatic species pursuant to the provisions of this act shall produce positive proof of:

- a. identification including, but not limited to, a valid Oklahoma driver license of the applicant,
- b. age, and
- c. residency.

2. It shall be unlawful for any person to make a false statement or to give any false information in order to acquire a license, pursuant to the provisions of this act.

B. Any license issued by the Oklahoma Department of Agriculture, Food, and Forestry pursuant to this act shall contain the data required by subsection A of this section as well as the date and time of issuance of the license.

C. 1. All licenses issued by the Department pursuant to this act shall be nontransferable.

2. No person shall alter, change, lend or transfer any such license. No person shall use, loan or borrow a license which has not been issued to that person by the Oklahoma Department of Agriculture, Food, and Forestry.

D. All licenses issued pursuant to this act shall terminate December 31 for the year issued.

E. The Department may issue a duplicate license at a reasonable cost for a commercial operation if such license is lost or destroyed.

F. 1. A license for engaging in a private commercial operation subject to the provisions of this act may be revoked for a period of not less than one (1) year upon the conviction of the licensee for violating any provision of this act or rules promulgated thereto by the Oklahoma Department of Agriculture, Food, and Forestry in

accordance with rules promulgated by the State Board of Agriculture, or by a court of competent jurisdiction.

2. For purposes of this subsection, a court conviction, a plea of guilty, a plea of nolo contendere, the imposition of a deferred or suspended sentence by a court, or forfeiture of bond shall be deemed a conviction.

3. Any person who has had a license to engage in private commercial operations pursuant to this act shall not be entitled to reapply for such license until the revocation period has expired or the person has obtained approval of the Oklahoma Department of Agriculture, Food, and Forestry to reapply for the license.

4. It shall be unlawful for any person to engage in a private commercial operation subject to the provisions of this act after revocation of his or her license. Upon conviction of engaging in a commercial operation after revocation of a license, such person shall not be entitled to obtain a license pursuant to this act for a two-year period after conviction.

Added by Laws 2002, c. 295, § 6, eff. Nov. 1, 2002.

§2-6-317. Violations.

A. Any person convicted of violating any of the provisions of this act shall be guilty of a misdemeanor.

B. Any violations of the Oklahoma Wildlife Conservation Code shall be under the jurisdiction of the Oklahoma Wildlife Conservation Commission.

Added by Laws 2002, c. 295, § 7, eff. Nov. 1, 2002.

§2-6-400. Short title.

Subarticle 4 of Article 6 of the Oklahoma Agricultural Code shall be known and may be cited as the "Animal Disease Outbreak Temporary Emergency Act".

Added by Laws 2002, c. 173, § 14, emerg. eff. May 6, 2002.

§2-6-401. Animal disease threatening domestic animal population and/or public welfare - Certification - Declaration of emergency by Governor.

A. 1. If the State Board of Agriculture determines that a confirmed case of an animal disease in this state presents a substantial and imminent threat to the state's domestic animal population and/or to protect the public welfare, the Board shall certify the case to the Governor.

2. After receiving certification from the Board, the Governor may declare an emergency pursuant to this section for purposes of allowing the Board to establish quarantine zones of control to protect the health of domestic animals and the public welfare from disease. The Governor may declare an emergency pursuant to this

section without declaring an emergency under the Oklahoma Civil Defense and Emergency Resources Management Act of 1967.

3. A declaration pursuant to this section:

- a. may specify that it applies to all or certain units of the state or local government,
- b. must specify the time period for which it applies, and
- c. must be filed with the Secretary of State.

4. The provisions of this subsection are in addition to and do not limit authority granted to the Governor or local government officials by other provisions of law.

B. 1. The Board may meet by electronic means without violating state open meeting laws for the purpose of declaring that a highly suspicious case of a disease in this state presents a substantial and imminent threat to the state's domestic animal population.

2. If the Board meets by electronic means for this purpose, it shall comply with the emergency meeting notice provisions of Section 311 of Title 25 of the Oklahoma Statutes and, to the fullest extent possible, provide public and media access to the meeting.

Added by Laws 2002, c. 173, § 15, emerg. eff. May 6, 2002.

§2-6-402. Quarantine zones of control.

A. Upon an emergency declaration by the Governor pursuant to the Animal Disease Outbreak Temporary Emergency Act, the State Veterinarian may establish quarantine zones of control in any area where a specific animal determined to be infected or is likely to be infected with the disease be examined by a veterinarian authorized by the Board or the State Veterinarian. This determination shall be based on an actual veterinary examination or laboratory testing.

B. Quarantine zones of control shall be the smallest size practicable to prevent the spread of the disease and must exist for the shortest duration consistent with effective disease control. A quarantine zone of control shall not extend beyond a radius of three (3) miles from an animal determined to be infected or is likely to be infected with the disease, unless the Board orders that control of a specific disease requires a larger quarantine zone of control based upon epidemiological evidence.

Added by Laws 2002, c. 173, § 16, emerg. eff. May 6, 2002.

§2-6-403. Orders restricting movement of persons, livestock, machinery, and personal property.

A. 1. The State Board of Agriculture may issue orders restricting the movement of persons, livestock, machinery, and personal property out of quarantine zones. The President of the Board, the State Veterinarian, or any licensed veterinarian designated by the Board may issue the orders.

2. Any such order shall be issued upon a determination that reasonable cause exists to believe that the movement of persons or

personal property out of a quarantine zone will reasonably transport a dangerous, infectious, or communicable disease outside of the quarantine zone.

B. An order restricting the movement of persons, livestock, machinery, and personal property out of quarantine zones:

1. Shall be served upon any person subject to the order;
2. Shall be limited to the greatest extent possible consistent with the paramount disease control objectives as determined by the Board;
3. May be served on any day at any time; and
4. Must include a notice of the person's rights pursuant to this section, including, but not limited to, the ability of the person to enter into an agreement to abide by disease control measures under subsection C of this section and the right to request a court hearing under subsection D of this section. When an order restricting the movement of persons has been issued, the physical and emergency medical needs of those persons restricted pursuant to the order shall be addressed in a systematic and competent manner.

C. No person may be restricted by an order, issued pursuant to the Animal Disease Outbreak Temporary Emergency Act for longer than seventy-two (72) hours, if the person agrees to abide by the disease control measures established by the Board. Such person shall sign an acknowledgment form prepared by the Board evidencing the person's agreement to abide by the disease control measures established by the Board.

D. Any person whose movements are restricted by an order pursuant to the Animal Disease Outbreak Temporary Emergency Act may seek a district court hearing on the order at any time after it is served on the person. The hearing shall be heard as soon as possible regardless of the time of day and any inconvenience to the court. The hearing may be held by electronic means. The subject of the order may:

1. Contest imposition of the order on grounds that it is an abuse of the Board's discretion pursuant to the Animal Disease Outbreak Temporary Emergency Act; or
2. Seek a variance from the order to allow movement of a person inconsistent with the order, upon a showing that the person would otherwise suffer irreparable harm.

Added by Laws 2002, c. 173, § 17, emerg. eff. May 6, 2002. Amended by Laws 2004, c. 60, § 6, emerg. eff. April 6, 2004.

§2-6-404. Court action against persons not abiding by disease control measures - Hearing - Violation.

A. If the State Board of Agriculture determines that a person has not or is not reasonably likely to abide by the disease control measures established by the Board, the Board may request a court hearing to determine if the emergency temporary restrictions should

continue. The court shall schedule the hearing as expeditiously as possible. When the Board requests a court hearing under this section, restrictions pursuant to Section 17 of this act shall continue to apply to the person until the court has held the temporary emergency restrictions hearing and issues an order either continuing the emergency disease control measures established by the Board or removing the emergency disease control measures.

B. If the Board requests a court hearing pursuant to this section, notice of the hearing must be served upon any person restricted at least twenty-four (24) hours before the hearing.

C. The notice must contain the following information:

1. The time, date, and place of the hearing;
2. The grounds and underlying facts upon which continued restrictions are sought;
3. The person's right to appear by electronic means at the hearing and the right to have a representative appear in person at the hearing;
4. The person's right to present and cross-examine witnesses; and
5. The person's right to counsel, including the right, if the person is indigent, to representation by counsel designated by the court or county of venue.

D. 1. The court may order the continued restriction on the movement of the person if it finds, by a preponderance of the evidence, that travel outside of the quarantine zone by the person would pose an imminent threat of transporting a dangerous, infectious, or communicable disease outside of the boundaries of the quarantine zone.

2. If the person agrees to sign and comply with the acknowledgment form referred to in Section 17 of this act, the temporary restrictions shall not continue longer than thirty (30) days.

3. If the person refuses to sign and comply with the acknowledgment form, the temporary restrictions shall continue for a longer time as specified by the court. Refusal by the person to sign and comply with the acknowledgment form constitutes a knowing violation of the Animal Disease Outbreak Temporary Emergency Act. Added by Laws 2002, c. 173, § 18, emerg. eff. May 6, 2002.

§2-6-405. Suppression and eradication of disease - Actions permitted - Cooperation with federal agencies in enforcement of regulations - Compensation - Appraisal - Proceedings barred pending compensation - Injunction.

A. When it is determined by the State Board of Agriculture that it is necessary to eradicate any dangerous, infectious or communicable disease among domestic animals in the state, the presence of which constitutes an emergency declared pursuant to the

Animal Disease Outbreak Temporary Emergency Act or declared by the United States Department of Agriculture, the Board may take reasonable and necessary steps to suppress and eradicate the disease. The Board may cooperate with the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture, federally recognized Indian tribes, state or local government agencies, or any other private or public entity in the suppression and eradication of the disease.

B. When an emergency has been declared, the Board or the State Veterinarian may order:

1. Animals destroyed which are infected with the disease, exposed to the disease, or are highly susceptible to exposure to the disease because of proximity to diseased animals affected by the disease;

2. Personal property to be destroyed in order to remove the infection;

3. The cleaning and disinfection of any premises, exposed to the disease, or are highly susceptible to exposure to the disease because of proximity to diseased animals affected by the disease; and

4. Any act and incur any other expense reasonably necessary to destroy or suppress the disease.

C. The Governor, at the request of the Board, may take any other emergency action necessary to ensure the health of the public and the state livestock industry.

D. 1. The Board may:

- a. accept on behalf of the state, the regulations adopted by the Animal and Plant Health Inspection Service of the United States Department of Agriculture pertaining to the disease authorized under an act of Congress, or the portion of the regulations deemed necessary, suitable, or applicable, and
- b. cooperate with the Animal and Plant Health Inspection Service of the United States Department of Agriculture, in the enforcement of such regulations.

2. Alternatively, the Board may follow the procedure only as to quarantine, inspection, condemnation, appraisal, compensation, destruction, burial of animals, disinfection, or other acts the Board considers reasonably necessary for the destruction or suppression of the disease as adopted by the Board.

E. 1. For the purpose of determining compensation as provided by subsection F of this section, appraisals of animals or personal property destroyed pursuant to the Animal Disease Outbreak Temporary Emergency Act must be made by a Board-approved appraiser or by an appraisal committee consisting of an appraiser representing the Board, an appraiser representing the Animal and Plant Health Inspection Service of the United States Department of Agriculture, and an appraiser representing the owner. When, in the judgment of

the Board or the State Veterinarian, the animals to be killed or personal property to be destroyed poses a disease threat, appraisals may be conducted after the animals are killed based on documents, testimony, or other relevant evidence.

2. Appraisals must be:

- a. in writing and signed by the appraisers or appraisal committee, and
- b. made at the fair market value of all animals and personal property appraised, unless otherwise provided by applicable federal law or regulation when compensation is paid by federal funds.

F. Upon destruction of animals or personal property, burial or other disposition of the carcasses of the animals, and the completion of the cleaning and disinfection of the premises in accordance with the provisions of the Animal Disease Outbreak Temporary Emergency Act, the Board or its authorized agent shall certify the appraisal to the Director of the Office of Management and Enterprise Services. If funds are available for this purpose, the Director shall then file a claim with the State Treasurer for a warrant in the amount payable to the owner, excluding any compensation received by the owner from other sources.

G. A person who believes that the Board's certified appraisal is not sufficient may apply for a temporary restraining order or injunctive relief from the appropriate district court.

H. 1. No person or other legal entity may initiate any proceeding to collect a debt from the owner relating to animals or personal property destroyed pursuant to this section, until the owner has received compensation under paragraph F of this section.

2. If a person or other legal entity refuses to comply with this subsection after being informed that the owner qualifies for relief pursuant to the Animal Disease Outbreak Temporary Emergency Act, the owner may apply to the district court in the county in which the owner resides for a court order directing the person or other legal entity to comply with this subsection and to reimburse the owner for reasonable attorney fees incurred in obtaining the court order.

3. The provisions of this subsection shall not affect the validity of a mortgage foreclosure, contract for deed cancellation or other proceeding involving the title to real property, unless the owner records in the office of the county clerk where the real property is located, prior to completion of the proceeding to collect the debt, a certified copy of the court order determining that the owner qualifies for relief pursuant to the Animal Disease Outbreak Temporary Emergency Act, and the legal description of the real property.

4. a. For purposes of proceedings involving title to real property pursuant to paragraph 3 of this subsection, the court order must provide that the order expires

ninety (90) days after the date of application for the court order, unless the court extends the court order prior to that date for good cause shown.

- b. A certified copy of any extension of the court order must be filed in the office of the county clerk in order to affect the validity of a proceeding affecting the title to real property.

5. For purposes of this subsection:

- a. "completion of a proceeding to collect a debt" means, in the case of a mortgage foreclosure or of a foreclosure of any other lien on real property, the filing or recording of the sheriff's certificate of sale, and, in the case of a contract for deed cancellation, the end of the cancellation period provided in that law, and
- b. "proceeding to collect a debt" includes foreclosure, repossession, garnishment, levy, contract for deed cancellation, an action to obtain a court judgment, a proceeding to collect real estate taxes or special assessments, eviction, and any other in-court and out-of-court proceedings to collect a debt. The term shall not include sending bills or other routine communications to the owner.

Added by Laws 2002, c. 173, § 19, emerg. eff. May 6, 2002. Amended by Laws 2012, c. 304, § 6.

§2-6-501. Short title.

This act shall be known and may be cited as the "Oklahoma Farmed Cervidae Act".

Added by Laws 2006, c. 138, § 1, eff. Nov. 1, 2006.

§2-6-502. Definitions.

As used in the Oklahoma Farmed Cervidae Act:

- 1. "Cervid", "cervidae", and "deer" mean any member of the cervidae family;
- 2. "Commercial" means to manage on a business basis or engage in any transaction or exchange for consideration including barter, the offer to sell, or possession with intent to sell for profit or monetary gain;
- 3. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry;
- 4. "Farmed cervidae" means all species of the cervid family and hybrids including white-tailed deer, elk, mule deer, red deer, or any other member of the family cervidae specified in rule by the State Board of Agriculture with written concurrence of the Department of Wildlife Conservation that are raised or maintained within a perimeter fence or confined space for the production of meat and other

agricultural products, sport, exhibition, personal use, or any other purpose. Farmed cervidae shall be considered livestock as long as they remain in a farmed cervidae facility. Farmed cervidae shall not include cervidae in a commercially licensed hunting facility;

5. "Farmed cervidae facility" means any private or public premises that contain one or more privately owned cervidae and the privately owned cervidae are not removed from the premises through hunting;

6. "Native cervidae" means any and all cervidae that are indigenous to Oklahoma or are living in a state of nature;

7. "Noncommercial" means to manage for personal enjoyment and personal use;

8. "Operator" means the person who performs the daily farmed cervidae management functions;

9. "Owner" means a person with legal title to a farmed cervid or herd of farmed cervidae;

10. "Premises" means the ground, area, buildings, water source and equipment commonly shared by a herd of cervidae; and

11. "Proof of ownership" means an inspection certificate of sale from a licensed public livestock market showing individual identification, a bill of sale, a certificate of sale, court orders, a statement that the cervidae was born from animals owned by the seller, or any other document the Department deems acceptable.

Added by Laws 2006, c. 138, § 2, eff. Nov. 1, 2006. Amended by Laws 2010, c. 360, § 1, eff. July 1, 2010; Laws 2011, c. 298, § 1, eff. Nov. 1, 2011.

§2-6-503. Authority to enter premises or mode of transportation - Commercial hunting facilities - Rules - Powers of Department.

A. Authorized agents of the Oklahoma Department of Agriculture, Food, and Forestry shall have the authority to enter any premises or mode of transportation as authorized pursuant to Section 2-14 of this title for the purpose of implementing or enforcing the Oklahoma Farmed Cervidae Act, or rules promulgated pursuant thereto.

B. Authorized agents of the Department of Wildlife Conservation shall have the authority to enter and inspect any premises pursuant to Section 3-201 of Title 29 of the Oklahoma Statutes for the purpose of implementing and enforcing the Oklahoma Wildlife Conservation Code or rules promulgated pursuant thereto.

C. The Oklahoma Farmed Cervidae Act shall not apply to the regulation of facilities owned and operated for the purpose of commercial hunting of farmed or captive-bred cervidae. Commercial hunting facilities shall remain under the jurisdiction of the Department of Wildlife Conservation.

D. The State Board of Agriculture is authorized to promulgate rules necessary, expedient, or appropriate for the performance, enforcement, or carrying out of any of the purposes, objectives, or

provisions of the Oklahoma Farmed Cervidae Act, including the establishment of fees. All fees shall be fair and equitable to all parties concerned. Rules shall be promulgated pursuant to the Administrative Procedures Act.

E. The Oklahoma Department of Agriculture, Food, and Forestry shall have the authority to:

1. Issue, renew, deny, modify, suspend, cancel, and revoke any registration, permit, certificate, license, identification, or order issued pursuant to the provisions of the Oklahoma Farmed Cervidae Act;
2. Issue entry or import permits to any person transporting farmed cervidae into this state;
3. Investigate complaints and violations of the Oklahoma Farmed Cervidae Act;
4. Issue quarantines, initiate control measures, confiscate, and destroy farmed cervidae that present a danger to native cervidae, other animals, or to the public safety or welfare;
5. Negotiate reciprocal agreements with the federal government or any state, or any department or agency of either; and
6. Exercise all incidental powers as necessary and proper to implement and enforce the provisions of the Oklahoma Farmed Cervidae Act.

Added by Laws 2006, c. 138, § 3, eff. Nov. 1, 2006. Amended by Laws 2012, c. 191, § 1, eff. Nov. 1, 2012.

§2-6-504. Farmed cervidae facility license.

A. No person shall breed, possess, or raise cervidae for commercial or noncommercial purposes without first obtaining a farmed cervidae facility license from the Oklahoma Department of Agriculture, Food, and Forestry.

B. The Department may issue a farmed cervidae facility license to any person that lawfully obtains cervidae, acts in good faith, and adheres to the laws and rules of the state, including the provisions of the Oklahoma Farmed Cervidae Act. Nothing in this section shall prevent the Department from issuing a license to persons the Department deems have obtained cervidae from a legal source, acted in good faith, and failed to recognize a license was required.

C. All persons issued a farmed cervidae license shall abide by all provisions of the Oklahoma Farmed Cervidae Act. An initial application for a farmed cervidae facility license shall contain the following:

1. Name, address, and telephone number of the owner;
2. Name, address, and telephone number of the operator, if different from the owner;
3. Name, address, and telephone number of the primary contact;
4. Farm name, facility address, and facility telephone number;

5. Name, address and telephone number of the location where records are kept;
 6. Specific legal description of the facility to the nearest quarter section;
 7. A map showing topography of the area with a diagram of the facility structures, fencing plan, and perimeter clearly marked;
 8. Whether the applicant has been convicted of a felony, misdemeanor, administrative, or civil violation of any natural resources requirements, including but not limited to wildlife, forestry, fisheries, environment, or animal health within the past three (3) years in the state or any other jurisdiction;
 9. Whether the property where the farmed cervidae facility is located is owned or leased;
 10. An initial inventory of the farmed cervidae, including their ages, breed and species, and a minimum of one form of official individual identification approved by the Department;
 11. Method of carcass disposal for the facility;
 12. Driving directions from the nearest town;
 13. A list of each name the farmed cervidae facility operates under; and
 14. Signed statement declaring: "I certify under penalty of law this document, all attachments, and information submitted are to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for knowingly submitting false, inaccurate, or incomplete information, including the possibility of fines for each violation."
- D. Using information from the application and from the state's files, the Department shall determine:
1. The accuracy of all materials in the application; and
 2. Whether the applicant can reasonably be expected to comply with all legal requirements of the license.
- E. The Department shall not issue a farmed cervidae facility license if the facility is not inspected by the Department.
- Added by Laws 2006, c. 138, § 4, eff. Nov. 1, 2006. Amended by Laws 2010, c. 360, § 2, eff. July 1, 2010; Laws 2016, c. 228, § 1, eff. Nov. 1, 2016.

§2-6-505. Application and licensing process, rules - Application form - Confinement of farmed cervidae - Inspections - Export of cervidae.

A. The Oklahoma Department of Agriculture, Food, and Forestry shall promulgate rules regarding the application and licensing process, including but not limited to:

1. The expiration date of a farmed cervidae facility license:
 - a. the license shall expire on June 30 of each calendar year, and the renewal application shall be submitted no later than April 1 of each calendar year,

- b. any renewal application received or postmarked after the renewal date shall be subject to a ten-percent penalty in addition to the renewal fee,
 - c. in addition to the renewal application containing all information from the initial license application other than the information requirements of paragraphs 6, 7 and 8 of subsection C of Section 6-504 of this title, the licensee shall submit a signed, complete, accurate, and legible form with the following information:
 - (1) the annual report containing all inventory information for all cervidae one (1) year of age or older, unless the facility is a Chronic Wasting Disease monitored herd with a current Chronic Wasting Disease inventory on file with the Department,
 - (2) any changes to the facility or change in status of convictions as required by paragraph 8 of subsection C of Section 6-504 of this title since the last renewal or original license application, including, but not limited to:
 - (a) changes in contact information, and
 - (b) changes in perimeter fences, including attaching an updated facility map indicating any expansion, change in facility perimeter, or any additional fencing, and
 - d. failure to renew a license by the expiration date shall result in the facility being quarantined until an administrative hearing can be conducted. The failure may result in revocation of the license, loss of the facility number, closure of the facility, and removal of the cervidae from the premises;
- 2. Fees for farmed cervidae facility licenses and all renewals;
 - 3. Procedures for the transfer of ownership:
 - a. the new owner or operator shall submit to the Department a transfer application, attaching any change of conditions resulting from the transfer of ownership or operation,
 - b. after receipt of the information required, the Department shall review the information, and within thirty (30) days, issue approval or denial of the transfer. Transfer of a license shall be denied only if the new owner or operator cannot comply with the requirements of transfer, and
 - c. if a transfer is denied, written notification of the denial and an opportunity for an administrative hearing on the denial shall be given to the applicant for a transfer license by the Department. The notification

shall set forth the reasons for the denial, steps necessary to meet the requirements for a transfer license and the opportunity for the applicant to request an administrative hearing;

4. Recordkeeping requirements:

- a. all required records shall be kept by the owner or operator for a maximum of three (3) years, and
- b. the following records shall be maintained at the facility:
 - (1) records of all cervidae sold, killed, given away, transported, or shipped from a farmed cervidae facility,
 - (2) proof that the cervidae are from a legal source and records kept and animals marked to identify individual animals,
 - (3) the Chronic Wasting Disease inventory or an inventory of cervidae one (1) year of age or older containing the following information:
 - (a) name and address of the farmed cervidae facility, the owner, and the operator,
 - (b) a listing of any and all identification numbers assigned to the cervidae by the owner or operator and any other official entity using either any official identification approved by the Department or United States Department of Agriculture alphanumeric test tag number or official Canadian alphanumeric test tag number, if applicable,
 - (c) age,
 - (d) sex,
 - (e) date of purchase,
 - (f) date of death or date of change of ownership,
 - (g) any cervidae born at the facility that are one (1) year of age or older shall be shown on the inventory record, or upon sale or transfer of ownership or upon leaving the facility, whichever comes first, and
 - (h) date the inventory was completed, and
 - (4) herd and individual animal health documents, including, but not limited to, the Certificate of Veterinary Inspection and test results;

5. Importation requirements:

- a. import of cervidae originating in any county or Canadian province where Chronic Wasting Disease exists in free-ranging native herds shall be prohibited, except the State Veterinarian may allow an import from a Canadian province with Chronic Wasting Disease after

notification to the Oklahoma Department of Wildlife Conservation and based on a review of the following factors:

- (1) distance of the farmed cervidae facility from the Chronic Wasting Disease area,
 - (2) the existence of double fencing between the farmed cervidae facility and free-ranging native herds,
 - (3) farmed cervidae facility biosecurity measures,
 - (4) participation of the farmed cervidae facility in any Canadian Chronic Wasting Disease herd certification programs, and
 - (5) any other relevant factors,
- b. all other cervidae imports shall only be from a source herd that is in a Chronic Wasting Disease surveillance and certification program for a minimum of five (5) years monitored and the program meets the standards of cervidae importation into Oklahoma,
 - c. import of cervidae shall be accompanied by a Certificate of Veterinary Inspection and an approved Cervidae Import Permit, and
 - d. import of cervidae shall follow all other disease testing required by the Oklahoma Statutes or rules promulgated by the Department;

6. Animal identification requirements;

7. Fencing requirements and limits on the size of licensed facilities, including:

- a. the owner or operator shall ensure that farmed cervidae are confined to the lands described in the application,
- b. the perimeter of each farmed cervidae facility shall be an eight-foot game or high tensile fence designed in a manner to prevent ingress and egress of cervidae,
- c. damage caused to a farmed cervidae facility perimeter fence by a natural disaster shall not constitute a violation so long as the owner or operator begins any necessary repairs immediately upon discovery, acts expeditiously in the opinion of the Department to complete any necessary repairs, and reports the extent and cause of any damage to the Department within two (2) working days of discovery,
- d. the owner or operator shall notify the Department within two (2) working days of discovery of any wild cervidae within the farmed cervidae facility,
- e. the owner or operator shall provide each farmed cervidae with adequate water, adequate feed, and appropriate natural or manmade shelter, and
- f. facility size shall be limited to the largest practicable area to ensure no native or wild cervidae

are within the confines of the facility. Limitations on facility size may include but not be limited to geography and topography of the property; and

8. Flushing procedures prepared with the input from the Department of Wildlife Conservation to ensure no native cervidae remain in a newly established licensed enclosure.

B. Any application for a farmed cervidae license shall be on a form prescribed by the Oklahoma Department of Agriculture, Food, and Forestry.

C. All farmed cervidae shall be confined to the lands described in the application for a specific facility and in a manner to prohibit:

1. Native cervidae from becoming part of a licensed farmed cervidae facility; and

2. Farmed cervidae from commingling with native cervidae.

D. When practicable the initial or annual inspection shall be coordinated with the owner or operator. In no case shall access by the Department be restricted in the event coordination does not occur.

E. The Department and the Department of Wildlife Conservation may coordinate and conduct inspections or investigations jointly.

F. Export of cervidae originating in any Oklahoma county where Chronic Wasting Disease exists in free-ranging native herds shall be allowed if exported from a monitored facility that is not quarantined.

Added by Laws 2006, c. 138, § 5, eff. Nov. 1, 2006. Amended by Laws 2010, c. 360, § 3, eff. July 1, 2010; Laws 2011, c. 298, § 2, eff. Nov. 1, 2011; Laws 2018, c. 63, § 1, eff. Nov. 1, 2018; Laws 2019, c. 217, § 1, emerg. eff. April 29, 2019.

§2-6-506. Escaped farmed cervidae.

A. An owner or operator shall ensure farmed cervidae do not run at large and shall take all reasonable efforts to return any escaped farmed cervidae to their enclosures as soon as possible.

B. The owner or operator shall immediately notify the Oklahoma Department of Agriculture, Food, and Forestry and the local game warden of the Department of Wildlife Conservation if farmed cervidae escape.

C. If an owner or operator is unwilling or unable to capture escaped farmed cervidae, the Department of Wildlife Conservation has the authority to destroy the escaped farmed cervidae.

D. Any farmed cervidae that escape from a farmed cervidae facility and are taken by a licensed hunter in a manner that complies with the Oklahoma Wildlife Conservation Code shall be considered a legal taking and neither the licensed hunter, the state, nor any state agency shall be liable to the owner for taking the escaped farmed cervidae.

Added by Laws 2006, c. 138, § 6, eff. Nov. 1, 2006.

§2-6-507. Violations of act - Transportation of live cervidae.

A. It shall be unlawful and a violation of the Oklahoma Farmed Cervidae Act for any person:

1. To refuse an inspection authorized by the Oklahoma Farmed Cervidae Act;

2. To commingle or integrate any native cervidae into a farmed cervidae herd;

3. To intentionally commingle or integrate any farmed cervidae with native cervidae;

4. To fail to maintain records as required by law;

5. To fail to maintain fencing as required by law;

6. To fail to pay any fee, fine, or penalty as required and established pursuant to the Oklahoma Farmed Cervidae Act;

7. To fail to comply with any State Board of Agriculture order; or

8. To violate any provision of the Oklahoma Farmed Cervidae Act.

B. No person shall transport live cervidae into or through Oklahoma unless the cervidae originate from a state that allows transport of live cervidae from Oklahoma into or through that state. Added by Laws 2006, c. 138, § 7, eff. Nov. 1, 2006. Amended by Laws 2012, c. 191, § 2, eff. Nov. 1, 2012.

§2-6-508. Slaughter of farmed cervidae - Disposition of hides or antlers.

A. Owners and operators of licensed farmed cervidae facilities may slaughter farmed cervidae at any time throughout the year pursuant to the Exotic Livestock and Exotic Livestock Products Inspection Act.

B. An owner or operator may slaughter their own farmed cervidae for personal or noncommercial consumption.

C. Owners and operators of licensed farmed or commercial cervidae facilities may sell, use, or dispose of hides or antlers from slaughtered farmed cervidae, provided they comply with all requirements in rules promulgated by the State Board of Agriculture with input from the Department of Wildlife Conservation.

D. An owner or operator shall only sell or dispose of antlers with attached skull plates in the following circumstances:

1. Each set of antlers shall be individually identified with sufficient documentation linking it to the farmed or commercial cervidae facility, including, but not limited to, photographs, lock-on identification tags, DNA testing, or other proof of ownership;

2. In no case shall an owner or operator sell or dispose of antlers without appropriate documentation; and

3. The owner or operator shall provide a copy of all appropriate documentation to the purchaser or recipient at the time of sale or disposal.

E. The sale or disposal of antler sheds or antlers that are attached to the skull plate shall not be restricted.

F. Facilities shall comply with all carcass disposal requirements. The following methods may be used for disposal of carcasses from a farmed cervidae facility:

1. Rendering;
2. Landfill;
3. Burial;
4. Incineration; or
5. Composting.

Added by Laws 2006, c. 138, § 8, eff. Nov. 1, 2006. Amended by Laws 2010, c. 360, § 4, eff. July 1, 2010.

§2-6-509. Administrative or criminal penalty, assessment - Cancellation or revocation of registration, permit, certificate, license, identification, or order - Violations of Wildlife Conservation Code.

A. The assessment of an administrative or criminal penalty for violations of the Oklahoma Farmed Cervidae Act shall be pursuant to Section 2-18 of Title 2 of the Oklahoma Statutes.

B. Any person with a registration, permit, certificate, license, identification, or order that is canceled or revoked by the Oklahoma Department of Agriculture, Food, and Forestry shall be prohibited from obtaining a new registration, permit, certificate, license, identification, or order until after the date the canceled or revoked registration, permit, certificate, license, identification, or order would have expired.

C. Any person that violates the provisions of the Oklahoma Wildlife Conservation Code contained in Title 29 of the Oklahoma Statutes shall be subject to the administrative and criminal provisions contained in the Oklahoma Wildlife Conservation Code.

Added by Laws 2006, c. 138, § 9, eff. Nov. 1, 2006.

§2-6-510. Emergency orders - Compliance - Hearings - Review of order, priority.

A. Whenever the State Veterinarian finds that an emergency exists requiring immediate action to protect the public health or welfare or to protect farmed or native cervidae from any animal disease or pest, the State Veterinarian may without notice or hearing issue an order that shall be effective upon issuance, reciting the existence of an emergency and requiring that immediate action be taken to meet the emergency.

B. Any person to whom an emergency order is directed shall comply immediately but may request an administrative enforcement hearing within fifteen (15) days after the order is served.

C. The administrative enforcement hearing shall be held by the Oklahoma Department of Agriculture, Food, and Forestry within ten (10) working days after receipt of the request.

D. With the input of the Department of Wildlife Conservation, the State Board of Agriculture shall affirm, revoke, or modify the emergency order based on the hearing record.

E. Any person aggrieved by the final order may, pursuant to the Administrative Procedures Act, petition for a judicial review of the final order.

F. The appeal when docketed shall have priority over all cases pending on the docket, other than criminal.

Added by Laws 2006, c. 138, § 10, eff. Nov. 1, 2006.

§2-6-511. Wrongfully injure - Farmed cervidae facility - Remove from premises.

A. No person shall wrongfully injure any cervidae upon the premises of a farmed cervidae facility that is licensed pursuant to Section 6-504 of Title 2 of the Oklahoma Statutes or wrongfully remove any cervidae from the premises of a farmed cervidae facility that is licensed pursuant to Section 6-504 of Title 2 of the Oklahoma Statutes.

B. Any violation of the provision of subsection A of this section shall be deemed a misdemeanor and, upon conviction thereof, shall be punishable by a fine not less than Five Thousand Dollars (\$5,000.00) or by imprisonment in the county jail for a period not exceeding one (1) year, or by both such fine and imprisonment. In addition, any person violating the provisions of subsection A of this section shall be liable for damages of not less than three times nor more than ten times such a sum as would compensate for the actual detriment.

Added by Laws 2009, c. 458, § 1, emerg. eff. June 2, 2009.

§2-6-512. Prelicensing inspection.

A. After the initial prelicensing inspection, each premise shall be inspected at least once every other year unless there is a change in ownership or change in facilities.

B. The following prelicensing inspections shall occur:

1. Upon submission of a complete application, the Department of Agriculture, Food, and Forestry shall schedule an on-site meeting and inspection to review the facility;

2. The Department shall review the location of the facility, including breeding-pen fencing, gates, feed bunkers, shelter, carcass disposal areas, and any other facilities for the location;

3. The Department may request appropriate changes to the facility design;

4. In no case shall a license for a farmed cervidae facility be granted unless the Department has conducted a prelicensing inspection and the Department has approved the facility based on that inspection; and

5. The license shall be revoked for any facility that does not construct or operate the facility in accordance with the approved prelicensing inspection.

C. All new facilities shall be inspected within ninety (90) calendar days prior to issuing a new license.

D. It is the responsibility of the owner or operator to arrange the appropriate inspection and the Department shall be given adequate time to respond to the request for the initial inspection.

E. Authorized agents of the Oklahoma Department of Wildlife Conservation shall have the authority to enter and inspect any premises pursuant to Section 3-201 of Title 29 of the Oklahoma Statutes for the purpose of implementing and enforcing the Oklahoma Wildlife Conservation Code.

Added by Laws 2010, c. 360, § 5, eff. July 1, 2010.

§2-6-513. Written complaint procedures.

A. Upon receipt of a written complaint, the Department of Agriculture, Food, and Forestry shall notify the person filing the complaint in writing of its receipt and status within five (5) working days. The party whom the complaint is filed against, if known, shall be notified within five (5) working days. The resolution of a complaint is the completion of the appropriate administrative, jurisdictional, and legal remedies to the extent possible by the Department. The complainant and owner shall be notified in writing within seven (7) working days after resolution of the complaint.

B. The Department may initiate an investigation at any time.
Added by Laws 2010, c. 360, § 6, eff. July 1, 2010.

§2-6-514. Denial, revocation, cancelation, or suspension of license.

A. The license of any owner or operator may be revoked if it is determined at an administrative hearing that the owner or operator has violated any provision of the Oklahoma Farmed Cervidae Act.

B. In the event a license is denied, revoked, cancelled, or suspended, the owner or operator is not eligible to reapply until after the date the license would have expired.

Added by Laws 2010, c. 360, § 7, eff. July 1, 2010.

§2-6-515. Disposal of cervidae - Cleaning of premises.

A. Upon expiration of a license, the owner or operator may take up to one hundred twenty (120) days to dispose of all cervidae at the facility.

B. In no case shall the farmed cervidae be released into the wild.

C. Cleaning and disinfection of the premises shall be completed immediately upon closure of the facility in circumstances of disease if required by the Department of Agriculture, Food, and Forestry.
Added by Laws 2010, c. 360, § 8, eff. July 1, 2010.

§2-6-516. Regulations relating to import of nonnative cervidae to be consistent with federal regulations.

Any regulation relating to the import of nonnative cervidae adopted by a local government, authority, or state agency or office shall be consistent with corresponding federal regulations.
Added by Laws 2019, c. 217, § 2, emerg. eff. April 29, 2019.

§2-6-601. Short title.

This act shall be known and may be cited as the "Feral Swine Control Act".
Added by Laws 2007, c. 5, § 1, eff. Nov. 1, 2007.

§2-6-602. Purpose.

The purpose of the Feral Swine Control Act is to provide aggressive measures to reduce the number of feral swine in Oklahoma. Feral swine are a nonnative invasive species in Oklahoma that are detrimental to the natural resources of Oklahoma and agriculture production, and a disease risk. As the feral swine population increases, the citizens of Oklahoma continue to see increased damage to crops, livestock, and wildlife habitat. As carriers of diseases like brucellosis, pseudorabies, tuberculosis, anthrax, and trichinosis, feral swine pose an increasing health risk to humans, livestock, companion animals, pets, and native wildlife.
Added by Laws 2007, c. 5, § 2, eff. Nov. 1, 2007.

§2-6-603. Definitions.

As used in the Feral Swine Control Act:

1. "Daylight" means the period of time beginning when the sun rises and ending when the sun sets;

2. "Feral swine" means any domestic or wild animal of the species *Sus scrofa* that are or have been running at large, free roaming, or wild upon public or private lands, or have been captured, hunted, pursued, maintained, utilized, or released for any sporting purposes;

3. "Owner" means any person with title to the real property or a person that has obtained a right to the possession and use of a certain space, property, or subsurface right for a definite period of

time through a contractual lease. In the event a person is permitted to come upon the real property to perform some specific act including, but not limited to, hunting, removing feral swine, or fishing, that person has no "lease" but only a "license" to do that act;

4. "Remove" means to change the location of, eliminate, or attempt to eliminate feral swine by a variety of methods including, but not limited to, hunting, killing, taking, trapping, and catching; and

5. "Judas pig tagging system" means a population control technique where a radio-collared feral swine is released into a control area and, after a sufficient period to allow it to join other feral swine, it is tracked down and all swine associated with the collared swine are removed.

Added by Laws 2007, c. 5, § 3, eff. Nov. 1, 2007. Amended by Laws 2012, c. 32, § 1, eff. Nov. 1, 2012; Laws 2019, c. 321, § 1, eff. Nov. 1, 2019.

§2-6-604. Removal of feral swine during day authorized - Killing of feral swine at night, permit required.

A. Except as otherwise specified in the Feral Swine Control Act, any person with permission of the owner may remove feral swine from private or public property during daylight hours.

B. Any person who intends to kill or attempt to kill feral swine at night shall obtain a permit issued by the Department of Wildlife Conservation pursuant to Section 4-135 of Title 29 of the Oklahoma Statutes and promulgated rules.

Added by Laws 2007, c. 5, § 4, eff. Nov. 1, 2007.

§2-6-605. Killing of feral swine during certain deer hunting seasons, permit required - License required - Exemption.

A. During designated deer hunting seasons for primitive firearms and guns as specified in rules promulgated by the Department of Wildlife Conservation, an owner of private property shall not kill or attempt to kill feral swine during daylight hours that is damaging the property of the owner without first obtaining a special permit from the local game warden or other authorized employee of the Department of Wildlife Conservation. The special permit shall allow the owner and one person of lineal or collateral descent to kill feral swine on the property of the owner. The special permit shall be provided at no cost.

B. All other persons shall be required to obtain licenses and tags as required by the Oklahoma Wildlife Conservation Code and rules promulgated thereto.

C. Any person with a valid license to hunt deer is exempt from the requirements of this section during the appropriate licensed season.

Added by Laws 2007, c. 5, § 5, eff. Nov. 1, 2007.

§2-6-606. Taking and removal of feral swine.

A. Feral swine may be taken on lands owned or managed by the Department of Wildlife Conservation in accordance with rules promulgated thereto.

B. No person whose hunting license is revoked may remove feral swine during the time the license is revoked.

Added by Laws 2007, c. 5, § 6, eff. Nov. 1, 2007.

§2-6-607. Rules.

A. The State Board of Agriculture is authorized to promulgate rules necessary, expedient, or appropriate for the performance, enforcement, or carrying out of any of the purposes, objectives, or provisions of the Feral Swine Control Act.

B. Rules shall be promulgated pursuant to the Administrative Procedures Act.

Added by Laws 2007, c. 5, § 7, eff. Nov. 1, 2007.

§2-6-608. Importation - USDA permit - Slaughter following positive test results.

A. No person shall import live feral swine into this state unless the live feral swine are going directly to a slaughter facility in a sealed trailer and accompanied by a USDA vs 1-27 permit for the movement of restricted animals.

B. All feral swine in this state that test positive for brucellosis or pseudorabies shall be immediately sent directly to slaughter or slaughtered on the premises pursuant to an order issued by the State Veterinarian.

Added by Laws 2007, c. 5, § 8, eff. Nov. 1, 2007. Amended by Laws 2012, c. 28, § 1, eff. Nov. 1, 2012.

§2-6-609. Rules for testing and intrastate movement - Transporter license - Transportation to authorized locations.

A. The State Board of Agriculture shall promulgate rules for the testing and intrastate movement of live feral swine.

B. All persons that transport live feral swine in this state shall be required to obtain a transporter license from the Oklahoma Department of Agriculture, Food, and Forestry.

C. Live feral swine shall only be transported to the following:

1. A licensed sporting facility;
2. A licensed handling facility;
3. Directly to an approved slaughter facility; or
4. Pursuant to an order issued by the State Veterinarian.

Added by Laws 2007, c. 5, § 9, eff. Nov. 1, 2007. Amended by Laws 2012, c. 28, § 2, eff. Nov. 1, 2012.

§2-6-610. Violations of act - Penalties.

A. It shall be unlawful and a violation of the Feral Swine Control Act for any person:

1. To refuse an inspection;
2. To fail to comply with importation, testing, permitting, licensing, or transportation requirements;
3. To fail to pay any fee, administrative fine, or penalty;
4. To fail to comply with any Oklahoma Department of Agriculture, Food, and Forestry order; or
5. To violate any provision of the Oklahoma Feral Swine Control Act, Oklahoma Agricultural Code, or Oklahoma Wildlife Conservation Code.

B. Any person that violates the Feral Swine Control Act shall be assessed a penalty or an administrative fine pursuant to Section 2-18 of Title 2 of the Oklahoma Statutes.

Added by Laws 2007, c. 5, § 10, eff. Nov. 1, 2007.

§2-6-611. Intentional or knowing release - Knowing or intentional violation of requirements - Penalties.

A. No person shall intentionally or knowingly release or engage in, sponsor, instigate, assist, or profit from the release of any hog, boar, swine, or pig to live in a wild or feral state upon public or private lands, except for:

1. Release into a licensed sporting facility pursuant to the Feral Swine Control Act; or
2. When utilizing the Judas pig tagging system, release onto the same private land on which a feral hog was trapped or caught. In order to come under the release authorization of this paragraph, the release must occur within twenty-four (24) hours of the capture of the hog.

B. No person shall knowingly or intentionally violate the importation, testing, permitting, licensing, and transportation requirements contained in the Feral Swine Control Act and rules promulgated thereto.

C. Any person violating the provisions of this section is guilty of a felony and subject to a maximum punishment of two (2) years in prison, a fine of Two Thousand Dollars (\$2,000.00), or both fine and imprisonment.

Added by Laws 2007, c. 5, § 11, eff. Nov. 1, 2007. Amended by Laws 2012, c. 32, § 2, eff. Nov. 1, 2012.

§2-6-612. Restraint by owner - Damages recoverable.

All feral swine shall be restrained by the owner at all times and seasons of the year from running at large in this state. Any damages caused by feral swine trespassing upon lands of another shall be recovered in any manner provided by law.

Added by Laws 2007, c. 5, § 12, eff. Nov. 1, 2007.

§2-6-613. Ownership of feral swine.

A person shall not be considered the owner of a feral swine if, within a twenty-four-hour period, the person catches, tags, and releases the feral swine in the same location that it was caught. Added by Laws 2012, c. 32, § 3, eff. Nov. 1, 2012.

§2-6-614. Legislative encouragement of Judas pig tagging system.

Recognizing the success of other states, like Mississippi and New Mexico, utilizing the Judas pig tagging system, the Legislature encourages using the Judas pig tagging system as an effective technique of hunting and controlling the feral swine population. Added by Laws 2012, c. 32, § 4, eff. Nov. 1, 2012.

§2-7-1.1. Repealed by Laws 2007, c. 93, § 4, eff. Nov. 1, 2007.

§2-7-10. Dairy compact law - Southern Dairy Compact - Oklahoma's participation.

DAIRY COMPACT LAW

Southern Dairy Compact; Oklahoma's participation

The Southern Dairy Compact, the full text of which is hereinafter set forth and confirmed by the Oklahoma Legislature, is hereby entered into on behalf of the State of Oklahoma. The compact shall become effective when enacted into law by at least two other states within the compact group of states and when the consent of Congress has been obtained. The full text of said compact is as follows:

SOUTHERN DAIRY COMPACT

ARTICLE I. STATEMENT OF PURPOSE, FINDINGS AND DECLARATION OF POLICY

§1. Statement of purpose, findings and declaration of policy

The purpose of this compact is to recognize the interstate character of the southern dairy industry and the prerogative of the states under the United States Constitution to form an interstate commission for the southern region. The mission of the commission is to take such steps as are necessary to assure the continued viability of dairy farming in the south and to assure consumers of an adequate, local supply of pure and wholesome milk.

The participating states find and declare that the dairy industry is an essential agricultural activity of the south. Dairy farms and associated suppliers, marketers, processors and retailers are an integral component of the region's economy. Their ability to provide a stable, local supply of pure, wholesome milk is a matter of great importance to the health and welfare of the region.

The participating states further find that dairy farms are essential and they are an integral part of the region's rural

communities. The farms preserve land for agricultural purposes and provide needed economic stimuli for rural communities.

In establishing their constitutional regulatory authority over the region's fluid milk market by this compact, the participating states declare their purpose that this compact neither displace the federal order system nor encourage the merging of federal orders. Specific provisions of the compact itself set forth this basic principle.

Designed as a flexible mechanism able to adjust to changes in a regulated marketplace, the compact also contains a contingency provision should the federal order system be discontinued. In that event, the interstate commission is authorized to regulate the marketplace in replacement of the order system. This contingent authority does not anticipate such a change, however, and should not be so construed. It is provided should developments in the market other than establishment of this compact result in discontinuance of the order system.

By entering into this compact, the participating states affirm that their ability to regulate the price which southern dairy farmers receive for their product is essential to the public interest. Assurance of a fair and equitable price for dairy farmers ensures their ability to provide milk to the market and the vitality of the southern dairy industry, with all the associated benefits.

Recent, dramatic price fluctuations, with a pronounced downward trend, threaten the viability and stability of the southern dairy region. Historically, individual state regulatory action had been an effective emergency remedy available to farmers confronting a distressed market. The federal order system, implemented by the Agricultural Marketing Agreement Act of 1937, establishes only minimum prices paid to producers for raw milk, without preempting the power of states to regulate milk prices above the minimum levels so established.

In today's regional dairy marketplace, cooperative, rather than individual, state action is needed to more effectively address the market disarray. Under our constitutional system, properly authorized states acting cooperatively may exercise more power to regulate interstate commerce than they may assert individually without such authority. For this reason, the participating states invoke their authority to act in common agreement, with the consent of Congress, under the compact clause of the Constitution.

ARTICLE II. DEFINITIONS AND RULES OF CONSTRUCTION

§2. Definitions

For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

(1) "Class I milk" means milk disposed of in fluid form or as a fluid milk product, subject to further definition in accordance with the principles expressed in subdivision (b) of section three of this compact.

(2) "Commission" means the Southern Dairy Compact Commission established by this compact.

(3) "Commission marketing order" means regulations adopted by the commission pursuant to this compact in place of a terminated federal marketing order or state dairy regulation. Such order may apply throughout the region or in any part or parts thereof as defined in the regulations of the commission. Such order may establish minimum prices for any or all classes of milk.

(4) "Compact" means this interstate compact.

(5) "Compact over-order price" means a minimum price required to be paid to producers for Class I milk established by the commission in regulations adopted pursuant to this compact, which is above the price established in federal marketing orders or by state farm price regulations in the regulated area. Such price may apply throughout the region or in any part or parts thereof as defined in the regulations of the commission.

(6) "Milk" means the lactal secretion of cows and includes all skim, butterfat, or other constituents obtained from separation or any other process. The term is used in its broadest sense and may be further defined by the commission for regulatory purposes.

(7) "Partially regulated plant" means a milk plant not located in a regulated area but having Class I distribution within such area. Commission regulations may exempt plants having such distribution or receipts in amounts less than the limits defined therein.

(8) "Participating state" means a state which has become a party to this compact by the enactment of concurring legislation.

(9) "Pool plant" means any milk plant located in a regulated area.

(10) "Region" means the territorial limits of the states which are parties to this compact.

(11) "Regulated area" means any area within the region governed by and defined in regulations establishing a compact over-order price or commission marketing order.

(12) "State dairy regulation" means any state regulation of dairy prices, and associated assessments, whether by statute, marketing order or otherwise.

§3. Rules of construction

(a) This compact shall not be construed to displace existing federal milk marketing orders or state dairy regulation in the region but to supplement them. In the event some or all federal orders in the region are discontinued, the compact shall be construed to

provide the commission the option to replace them with one or more commission marketing orders pursuant to this compact.

(b) The compact shall be construed liberally in order to achieve the purposes and intent enunciated in section one. It is the intent of this compact to establish a basic structure by which the commission may achieve those purposes through the application, adaptation and development of the regulatory techniques historically associated with milk marketing and to afford the commission broad flexibility to devise regulatory mechanisms to achieve the purposes of this compact. In accordance with this intent, the technical terms which are associated with market order regulation and which have acquired commonly understood general meanings are not defined herein but the commission may further define the terms used in this compact and develop additional concepts and define additional terms as it may find appropriate to achieve its purposes.

ARTICLE III. COMMISSION ESTABLISHED

§4. Commission established

There is hereby created a commission to administer the compact, composed of delegations from each state in the region. The commission shall be known as the Southern Dairy Compact Commission. A delegation shall include not less than three nor more than five persons. Each delegation shall include at least one dairy farmer who is engaged in the production of milk at the time of appointment or reappointment and one consumer representative. Delegation members shall be residents and voters of, and subject to such confirmation process as is provided for in the appointing state. Delegation members shall serve no more than three consecutive terms with no single term of more than four (4) years and be subject to removal for cause. In all other respects, the delegation members shall serve in accordance with the laws of the state represented. The compensation, if any, of the members of a state delegation shall be determined and paid by each state, but their expenses shall be paid by the commission.

§5. Voting requirements

All actions taken by the commission, except for the establishment or termination of an over-order price or commission marketing order, and the adoption, amendment or rescission of the commission's bylaws, shall be by majority vote of the delegations present. Each state delegation shall be entitled to one vote in the conduct of the commission's affairs. Establishment or termination of an over-order price or commission marketing order shall require at least a two-thirds (2/3) vote of the delegations present. The establishment of a regulated area which covers all or part of a participating state shall require also the affirmative vote of that state's delegation.

A majority of the delegations from the participating states shall constitute a quorum for the conduct of the commission's business.

§6. Administration and management

(a) The commission shall elect annually from among the members of the participating state delegations a chairperson, a vice-chairperson, and a treasurer. The commission shall appoint an executive director and fix his or her duties and compensation. The executive director shall serve at the pleasure of the commission, and together with the treasurer, shall be bonded in an amount determined by the commission. The commission may establish through its bylaws an executive committee composed of one member elected by each delegation.

(b) The commission shall adopt bylaws for the conduct of its business by a two-thirds (2/3) vote, and shall have the power by the same vote to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form with the appropriate agency or officer in each of the participating states. The bylaws shall provide for appropriate notice to the delegations of all commission meetings and hearings and of the business to be transacted at such meetings or hearings. Notice also shall be given to other agencies or officers of participating states as provided by the laws of those states.

(c) The commission shall file an annual report with the Secretary of Agriculture of the United States, and with each of the participating states by submitting copies to the governor, both houses of the legislature, and the head of the state department having responsibilities for agriculture.

(d) In addition to the powers and duties elsewhere prescribed in this compact, the commission shall have the power:

(1) To sue and be sued in any state or federal court;

(2) To have a seal and alter the same at pleasure;

(3) To acquire, hold, and dispose of real and personal property by gift, purchase, lease, license, or other similar manner, for its corporate purposes;

(4) To borrow money and issue notes, to provide for the rights of the holders thereof and to pledge the revenue of the commission as security therefor, subject to the provisions of section eighteen of this compact;

(5) To appoint such officers, agents, and employees as it may deem necessary, prescribe their powers, duties and qualifications; and

(6) To create and abolish such offices, employments and positions as it deems necessary for the purposes of the compact and provide for the removal, term, tenure, compensation, fringe benefits, pension, and retirement rights of its officers and employees. The commission may also retain personal services on a contract basis.

§7. Rulemaking power

In addition to the power to promulgate a compact over-order price or commission marketing orders as provided by this compact, the commission is further empowered to make and enforce such additional rules and regulations as it deems necessary to implement any provisions of this compact, or to effectuate in any other respect the purposes of this compact.

ARTICLE IV. POWERS OF THE COMMISSION

§8. Powers to promote regulatory uniformity, simplicity, and interstate cooperation

The commission is hereby empowered to:

(1) Investigate or provide for investigations or research projects designed to review the existing laws and regulations of the participating states, to consider their administration and costs, to measure their impact on the production and marketing of milk and their effects on the shipment of milk and milk products within the region.

(2) Study and recommend to the participating states joint or cooperative programs for the administration of the dairy marketing laws and regulations and to prepare estimates of cost savings and benefits of such programs.

(3) Encourage the harmonious relationships between the various elements in the industry for the solution of their material problems.

(4) Conduct symposia or conferences designed to improve industry relations, or a better understanding of problems.

(5) Prepare and release periodic reports on activities and results of the commission's efforts to the participating states.

(6) Review the existing marketing system for milk and milk products and recommend changes in the existing structure for assembly and distribution of milk which may assist, improve or promote more efficient assembly and distribution of milk.

(7) Investigate costs and charges for producing, hauling, handling, processing, distributing, selling and for all other services performed with respect to milk.

(8) Examine current economic forces affecting producers, probable trends in production and consumption, the level of dairy farm prices in relation to costs, the financial conditions of dairy farmers, and the need for an emergency order to relieve critical conditions on dairy farms.

§9. Equitable farm prices

(a) The powers granted in this section and section ten of this compact shall apply only to the establishment of a compact over-order price, so long as federal milk marketing orders remain in effect in the region. In the event that any or all such orders are terminated,

this article shall authorize the commission to establish one or more commission marketing orders, as herein provided, in the region or parts thereof as defined in the order.

(b) A compact over-order price established pursuant to this section shall apply only to Class I milk. Such compact over-order price shall not exceed one dollar and fifty cents (\$1.50) per gallon at Atlanta, Ga.; however, this compact over-order price shall be adjusted upward or downward at other locations in the region to reflect differences in minimum federal order prices. Beginning in 1990, and using that year as a base, the foregoing one-dollar-and-fifty-cents-per-gallon maximum shall be adjusted annually by the rate of change in the Consumer Price Index as reported by the Bureau of Labor Statistics of the United States Department of Labor. For purposes of the pooling and equalization of an over-order price, the value of milk used in other use classifications shall be calculated at the appropriate class price established pursuant to the applicable federal order or state dairy regulation and the value of unregulated milk shall be calculated in relation to the nearest prevailing class price in accordance with and subject to such adjustments as the commission may prescribe in regulations.

(c) A commission marketing order shall apply to all classes and uses of milk.

(d) The commission is hereby empowered to establish a compact over-order price for milk to be paid by pool plants and partially regulated plants. The commission is also empowered to establish a compact over-order price to be paid by all other handlers receiving milk from producers located in a regulated area. This price shall be established either as a compact over-order price or by one or more commission marketing orders. Whenever such a price has been established by either type of regulation, the legal obligation to pay such price shall be determined solely by the terms and purpose of the regulation without regard to the situs of the transfer of title, possession or any other factors not related to the purposes of the regulation and this compact. Producer-handlers as defined in an applicable federal market order shall not be subject to a compact over-order price. The commission shall provide for similar treatment of producer-handlers under commission marketing orders.

(e) In determining the price, the commission shall consider the balance between production and consumption of milk and milk products in the regulated area, the costs of production including, but not limited to, the price of feed, the cost of labor including the reasonable value of the producer's own labor and management, machinery expense, and interest expense, the prevailing price for milk outside the regulated area, the purchasing power of the public and the price necessary to yield a reasonable return to the producer and distributor.

(f) When establishing a compact over-order price, the commission shall take such other action as is necessary and feasible to help ensure that the over-order price does not cause or compensate producers so as to generate local production of milk in excess of those quantities necessary to assure consumers of an adequate supply for fluid purposes.

(g) The commission shall whenever possible enter into agreements with state or federal agencies for exchange of information or services for the purpose of reducing regulatory burden and cost of administering the compact. The commission may reimburse other agencies for the reasonable cost of providing these services.

§10. Optional provisions for pricing order

Regulations establishing a compact over-order price or a commission marketing order may contain, but shall not be limited to, any of the following:

(1) Provisions classifying milk in accordance with the form in which or purpose for which it is used, or creating a flat pricing program.

(2) With respect to a commission marketing order only, provisions establishing or providing a method for establishing separate minimum prices for each use classification prescribed by the commission, or a single minimum price for milk purchased from producers or associations of producers.

(3) With respect to an over-order minimum price, provisions establishing or providing a method for establishing such minimum price for Class I milk.

(4) Provisions for establishing either an over-order price or a commission marketing order may make use of any reasonable method for establishing such price or prices including flat pricing and formula pricing. Provision may also be made for location adjustments, zone differentials and for competitive credits with respect to regulated handlers who market outside the regulated area.

(5) Provisions for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered, or for the payment of producers delivering milk to the same handler of uniform prices for all milk delivered by them.

(A) With respect to regulations establishing a compact over-order price, the commission may establish one equalization pool within the regulated area for the sole purpose of equalizing returns to producers throughout the regulated area.

(B) With respect to any commission marketing order which replaces one or more terminated federal orders or state dairy regulations, the marketing area of now separate state or federal orders shall not be merged without the affirmative consent of each

state, voting through its delegation, which is partly or wholly included within any such new marketing area.

(6) Provisions requiring persons who bring Class I milk into the regulated area to make compensatory payments with respect to all such milk to the extent necessary to equalize the cost of milk purchased by handlers subject to a compact over-order price or commission marketing order. No such provisions shall discriminate against milk producers outside the regulated area. The provisions for compensatory payments may require payment of the difference between the Class I price required to be paid for such milk in the state of production by a federal milk marketing order or state dairy regulation and the Class I price established by the compact over-order price or commission marketing order.

(7) Provisions specially governing the pricing and pooling of milk handled by partially regulated plants.

(8) Provisions requiring that the account of any person regulated under the compact over-order price shall be adjusted for any payments made to or received by such persons with respect to a producer settlement fund of any federal or state milk marketing order or other state dairy regulation within the regulated area.

(9) Provisions requiring the payment by handlers of an assessment to cover the costs of the administration and enforcement of such order pursuant to Article VII, Section 18(a).

(10) Provisions for reimbursement to participants of the Women, Infants and Children Special Supplemental Food Program of the United States Child Nutrition Act of 1966.

(11) Other provisions and requirements as the commission may find are necessary or appropriate to effectuate the purposes of this compact and to provide for the payment of fair and equitable minimum prices to producers.

ARTICLE V. RULEMAKING PROCEDURE

§11. Rulemaking procedure

Before promulgation of any regulations establishing a compact over-order price or commission marketing order, including any provision with respect to milk supply under subsection 9(f) of this compact, or amendment thereof, as provided in Article IV, the commission shall conduct an informal rulemaking proceeding to provide interested persons with an opportunity to present data and views. Such rulemaking proceeding shall be governed by section 4 of the Federal Administrative Procedure Act, as amended (5 U.S.C. §553). In addition, the commission shall, to the extent practicable, publish notice of rulemaking proceedings in the official register of each participating state. Before the initial adoption of regulations establishing a compact over-order price or a commission marketing order and thereafter before any amendment with regard to prices or assessments, the commission shall hold a public hearing. The

commission may commence a rulemaking proceeding on its own initiative or may, in its sole discretion, act upon the petition of any person including individual milk producers, any organization of milk producers or handlers, general farm organizations, consumer or public interest groups, and local, state or federal officials.

§12. Findings and referendum

In addition to the concise general statement of basis and purpose required by section 4(b) of the Federal Administrative Procedure Act, as amended (5 U.S.C. §553(c)), the commission shall make findings of fact with respect to:

(1) Whether the public interest will be served by the establishment of minimum milk prices to dairy farmers under Article IV.

(2) What level of prices will assure that producers receive a price sufficient to cover their costs of production and will elicit an adequate supply of milk for the inhabitants of the regulated area and for manufacturing purposes.

(3) Whether the major provisions of the order, other than those fixing minimum milk prices, are in the public interest and are reasonably designed to achieve the purposes of the order.

(4) Whether the terms of the proposed regional order or amendment are approved by producers as provided in section thirteen of this compact.

§13. Producer referendum

(a) For the purpose of ascertaining whether the issuance or amendment of regulations establishing a compact over-order price or a commission marketing order, including any provision with respect to milk supply under subsection 9(f) of this compact, is approved by producers, the commission shall conduct a referendum among producers. The referendum shall be held in a timely manner, as determined by regulation of the commission. The terms and conditions of the proposed order or amendment shall be described by the commission in the ballot used in the conduct of the referendum, but the nature, content, or extent of such description shall not be a basis for attacking the legality of the order or any action relating thereto.

(b) An order or amendment shall be deemed approved by producers if the commission determines that it is approved by at least two-thirds (2/3) of the voting producers who, during a representative period determined by the commission, have been engaged in the production of milk the price of which would be regulated under the proposed order or amendment.

(c) For purposes of any referendum, the commission shall consider the approval or disapproval by any cooperative association of producers, qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the Capper-Volstead Act,

bona fide engaged in marketing milk, or in rendering services for or advancing the interests of producers of such commodity, as the approval or disapproval of the producers who are members or stockholders in, or under contract with, such cooperative association of producers, except as provided in subdivision (1) hereof and subject to the provisions of subdivision (2) through (5) hereof.

(1) No cooperative which has been formed to act as a common marketing agency for both cooperatives and individual producers shall be qualified to block vote for either.

(2) Any cooperative which is qualified to block vote shall, before submitting its approval or disapproval in any referendum, give prior written notice to each of its members as to whether and how it intends to cast its vote. The notice shall be given in a timely manner as established, and in the form prescribed, by the commission.

(3) Any producer may obtain a ballot from the commission in order to register approval or disapproval of the proposed order.

(4) A producer who is a member of a cooperative which has provided notice of its intent to approve or not to approve a proposed order, and who obtains a ballot and with such ballot expresses approval or disapproval of the proposed order, shall notify the commission as to the name of the cooperative of which he or she is a member, and the commission shall remove such producer's name from the list certified by such cooperative with its corporate vote.

(5) In order to ensure that all milk producers are informed regarding the proposed order, the commission shall notify all milk producers that an order is being considered and that each producer may register approval or disapproval with the commission either directly or through his or her cooperative.

§14. Termination of over-order price or marketing order

(a) The commission shall terminate any regulations establishing an over-order price or commission marketing order issued under this article whenever it finds that such order or price obstructs or does not tend to effectuate the declared policy of this compact.

(b) The commission shall terminate any regulations establishing an over-order price or a commission marketing order issued under this article whenever it finds that such termination is favored by a majority of the producers who, during a representative period determined by the commission, have been engaged in the production of milk the price of which is regulated by such order; but such termination shall be effective only if announced on or before such date as may be specified in such marketing agreement or order.

(c) The termination or suspension of any order or provision thereof shall not be considered an order within the meaning of this article and shall require no hearing, but shall comply with the requirements for informal rulemaking prescribed by section four of the Federal Administrative Procedure Act, as amended (5 U.S.C. §553).

ARTICLE VI. ENFORCEMENT

§15. Records; reports; access to premises

(a) The commission may by rule and regulation prescribe record keeping and reporting requirements for all regulated persons. For purposes of the administration and enforcement of this compact, the commission is authorized to examine the books and records of any regulated person relating to his or her milk business and for that purpose, the commission's properly designated officers, employees, or agents shall have full access during normal business hours to the premises and records of all regulated persons.

(b) Information furnished to or acquired by the commission officers, employees, or its agents pursuant to this section shall be confidential and not subject to disclosure except to the extent that the commission deems disclosure to be necessary in any administrative or judicial proceeding involving the administration or enforcement of this compact, an over-order price, a compact marketing order, or other regulations of the commission. The commission may promulgate regulations further defining the confidentiality of information pursuant to this section. Nothing in this section shall be deemed to prohibit:

(1) The issuance of general statements based upon the reports of a number of handlers, which do not identify the information furnished by any person; or

(2) The publication by direction of the commission of the name of any person violating any regulation of the commission, together with a statement of the particular provisions violated by such person.

(c) No officer, employee, or agent of the commission shall intentionally disclose information, by inference or otherwise, which is made confidential pursuant to this section. Any person violating the provisions of this section shall, upon conviction, be subject to a fine of not more than One Thousand Dollars (\$1,000.00) or to imprisonment for not more than one (1) year, or to both, and shall be removed from office. The commission shall refer any allegation of a violation of this section to the appropriate state enforcement authority or United States Attorney.

§16. Subpoena; hearings and judicial review

(a) The commission is hereby authorized and empowered by its members and its properly designated officers to administer oaths and issue subpoenas throughout all signatory states to compel the attendance of witnesses and the giving of testimony and the production of other evidence.

(b) Any handler subject to an order may file a written petition with the commission stating that any such order or any provision of any such order or any obligation imposed in connection therewith is

not in accordance with law and praying for a modification thereof or to be exempted therefrom. The handler shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the commission. After such hearing, the commission shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(c) The district courts of the United States in any district in which such handler is an inhabitant, or has his or her principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within thirty (30) days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the commission by delivering to it a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the commission with directions either:

(1) To make such ruling as the court shall determine to be in accordance with law; or

(2) To take such further proceedings as, in its opinion, the law requires.

The pendency of proceedings instituted pursuant to this subdivision shall not impede, hinder, or delay the commission from obtaining relief pursuant to section seventeen of this compact. Any proceedings brought pursuant to section seventeen of this compact, except where brought by way of counterclaim in proceedings instituted pursuant to this section, shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this section.

§17. Enforcement with respect to handlers

(a) Any violation by a handler of the provisions of regulations establishing an over-order price or a commission marketing order, or other regulations adopted pursuant to this compact shall:

(1) Constitute a violation of the laws of each of the signatory states. Such violation shall render the violator subject to a civil penalty in an amount as may be prescribed by the laws of each of the participating states, recoverable in any state or federal court of competent jurisdiction. Each day such violation continues shall constitute a separate violation.

(2) Constitute grounds for the revocation of license or permit to engage in the milk business under the applicable laws of the participating states.

(b) With respect to handlers, the commission shall enforce the provisions of this compact, regulations establishing an over-order price, a commission marketing order or other regulations adopted hereunder by:

(1) Commencing an action for legal or equitable relief brought in the name of the commission of any state or federal court of competent jurisdiction; or

(2) Referral to the state agency for enforcement by judicial or administrative remedy with the agreement of the appropriate state agency of a participating state.

(c) With respect to handlers, the commission may bring an action for injunction to enforce the provisions of this compact or the order or regulations adopted thereunder without being compelled to allege or prove that an adequate remedy of law does not exist.

ARTICLE VII. FINANCE

§18. Finance of start-up and regular costs

(a) To provide for its start-up costs, the commission may borrow money pursuant to its general power under section six, subdivision (d), paragraph four of this compact. In order to finance the costs of administration and enforcement of this compact, including payback of start-up costs, the commission is hereby empowered to collect an assessment from each handler who purchases milk from producers within the region. If imposed, this assessment shall be collected on a monthly basis for up to one (1) year from the date the commission convenes, in an amount not to exceed one and one-half cents (\$.015) per hundredweight of milk purchased from producers during the period of the assessment. The initial assessment may apply to the projected purchases of handlers for the two-month period following the date the commission convenes. In addition, if regulations establishing an over-order price or a compact marketing order are adopted, they may include an assessment for the specific purpose of their administration. These regulations shall provide for establishment of a reserve for the commission's ongoing operating expenses.

(b) The commission shall not pledge the credit of any participating state or of the United States. Notes issued by the commission and all other financial obligations incurred by it, shall be its sole responsibility and no participating state or the United States shall be liable therefor.

§19. Audit and accounts

(a) The commission shall keep accurate accounts of all receipts and disbursements, which shall be subject to the audit and accounting procedures established under its rules. In addition, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

(b) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the participating states and by any persons authorized by the commission.

(c) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any participating state or of the United States.

ARTICLE VIII. ENTRY INTO FORCE; ADDITIONAL MEMBERS AND WITHDRAWAL

§20. Entry into force; additional members

The compact shall enter into force effective when enacted into law by any three states of the group of states composed of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia and when the consent of Congress has been obtained.

§21. Withdrawal from compact

Any participating state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one (1) year after notice in writing of the withdrawal is given to the commission and the governors of all other participating states. No withdrawal shall affect any liability already incurred by or chargeable to a participating state prior to the time of such withdrawal.

§22. Severability

If any part or provision of this compact is adjudged invalid by any court, such judgment shall be confined in its operation to the part or provision directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this compact. In the event Congress consents to this compact subject to conditions, said conditions shall not impair the validity of this compact when said conditions are accepted by three or more compacting states. A compacting state may accept the conditions of Congress by implementation of this compact. Added by Laws 2001, c. 32, § 1, eff. Nov. 1, 2001.

§2-7-21. Definitions.

As used in this subarticle:

1. "Cooperative association" means any group in which farmers or producers act together in the market preparation, processing, or marketing of farm products or any association, not having capital stock or operated for a profit, and organized under this subarticle;
2. "Dairy farmer" means a person engaged in the business of producing milk for sale to milk processors directly or through a cooperative association of which the person is a member. When a dairy farmer has sold milk through a cooperative association of which

the dairy farmer is a member, the cooperative association shall be considered a dairy farmer;

3. "Escrow account agent" means an entity within this state, which is insured by the Federal Deposit Insurance Corporation;

4. "Milk processor" means a person who operates a milk, milk products, or frozen desserts processing plant that is located in the State of Oklahoma; and

5. "Purchase price" means an amount of money, based on estimated butterfat content and other common industry standards at the time of delivery, that a milk processor agrees to pay a dairy farmer for a purchase of raw milk.

Added by Laws 1988, c. 139, § 1, eff. Nov. 1, 1988. Amended by Laws 1989, c. 182, § 2, operative July 1, 1989; Laws 2001, c. 146, § 4, emerg. eff. April 30, 2001. Renumbered from § 751 of this title by Laws 2001, c. 146, § 247, emerg. eff. April 30, 2001.

§2-7-22. Requirement of escrow account - Notice - Deposits - Commingling of monies.

A. 1. A dairy farmer from whom milk was purchased by a milk processor may require the milk processor to establish an escrow account for the benefit of the dairy farmer for the payment of the purchase price of milk as specified in paragraph 2 of this subsection.

2. A dairy farmer may require the milk processor to establish an escrow account only if:

- a. the dairy farmer has not received payment of the purchase price for the milk and has given written notice by certified mail, return receipt requested, to the milk processor within thirty (30) days following the final date the payment is due, or
- b. a payment instrument received by the dairy farmer from the milk processor has been dishonored and the dairy farmer has given written notice by certified mail, return receipt requested, to the milk processor within fifteen (15) business days after the notice of dishonor was received.

3. The notice specified by subparagraphs a and b of paragraph 2 of this subsection shall require that an escrow account be established and that the payment received from the sale of any milk or dairy product as specified in subsection B of this section be deposited in the escrow account until the dairy farmer has received full payment of the purchase price for the milk.

B. 1. The milk processor shall deposit a share of all payments received from the sale of milk or dairy products by the milk processor which is equal to the amount of the milk sold by the dairy farmer to the milk processor in proportion to the total amount of milk purchased for the sale of the milk and dairy products by the

milk processor into the escrow account upon receipt. The payments shall be deposited in the escrow account until the dairy farmer has received full payment of the purchase price for the milk.

2. The escrow account shall be a segregated interest bearing account and shall be established for the benefit of the dairy farmer. Upon sufficient proof of identification, the escrow account agent shall promptly pay to the dairy farmer any sum accumulated for the benefit of the dairy farmer in the escrow account.

C. 1. If any milk processor is required to establish more than one escrow account by operation of the provisions of this section, then the monies accruing may all be commingled in a single account.

2. The commingled monies accumulated in the account shall be distributed to each dairy farmer in the amount due to each.

3. If the commingled monies accumulated in the account are insufficient to pay all the dairy farmers, the escrow account agent shall distribute the monies so accumulated in proportion to the current amount due each.

D. For the purposes of this section, the monies held by the escrow account agent shall be the property of the dairy farmer, or dairy farmers if the monies have been commingled, in the current amount due to each or in proportion to the amount due each.

Added by Laws 1988, c. 139, § 2, eff. Nov. 1, 1988. Amended by Laws 2001, c. 146, § 5, emerg. eff. April 30, 2001. Renumbered from § 752 of this title by Laws 2001, c. 146, § 247, emerg. eff. April 30, 2001.

§2-7-23. Conditions of purchase of raw milk.

A milk processor may not purchase raw milk from a dairy farmer unless:

1. Payment of the purchase price is made according to the provisions prescribed by an applicable federal milk marketing order;

2. Any additional provisions are agreed on by both the dairy farmer or the agent of the dairy farmer and the milk processor; and

3. The medium of exchange used is cash, a check for the full amount of the purchase price, or a wire transfer of money in the full amount.

Added by Laws 1988, c. 139, § 3, eff. Nov. 1, 1988. Amended by Laws 2001, c. 146, § 6, emerg. eff. April 30, 2001. Renumbered from § 753 of this title by Laws 2001, c. 146, § 247, emerg. eff. April 30, 2001.

§2-7-24. Exception.

This subarticle does not apply to transactions between a cooperative association while acting as a marketing agent and its members.

Added by Laws 1988, c. 139, § 4, eff. Nov. 1, 1988. Amended by Laws 2001, c. 146, § 7, emerg. eff. April 30, 2001. Renumbered from § 754

of this title by Laws 2001, c. 146, § 247, emerg. eff. April 30, 2001.

§2-7-25. Liability of milk processor.

A milk processor who fails to pay for raw milk as provided by this subarticle is liable to the dairy farmer for:

1. The purchase price of the raw milk;
 2. Interest on the purchase price at the rate fixed by law for civil judgments commencing from the date possession is transferred until the date the payment is made; and
 3. A reasonable attorney fee for the collection of the payment.
- Added by Laws 1988, c. 139, § 5, eff. Nov. 1, 1988. Amended by Laws 2001, c. 146, § 8, emerg. eff. April 30, 2001. Renumbered from § 755 of this title by Laws 2001, c. 146, § 247, emerg. eff. April 30, 2001.

§2-7-26. Failure to establish escrow account - Failure to continue payments - Penalties.

Any milk processor failing to establish an escrow account upon receipt of notification of a dairy farmer pursuant to the provisions of this subarticle or who fails to continue to make payments until the dairy farmer has received full payment of the purchase price, upon conviction thereof shall be guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than One Thousand Dollars (\$1,000.00), imprisonment in the county jail for a period not to exceed one (1) year, or both such fine and imprisonment.

Added by Laws 1988, c. 139, § 6, eff. Nov. 1, 1988. Amended by Laws 2001, c. 146, § 9, emerg. eff. April 30, 2001. Renumbered from § 756 of this title by Laws 2001, c. 146, § 247, emerg. eff. April 30, 2001.

§2-7-401. Short title.

Sections 4 through 23 of this act shall be known and may be cited as the "Oklahoma Milk and Milk Products Act".

Added by Laws 1981, c. 43, § 1, emerg. eff. April 8, 1981. Amended by Laws 1987, c. 206, § 17, operative July 1, 1987; Laws 1987, c. 236, § 3, emerg. eff. July 20, 1987; Laws 1994, c. 140, § 4, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.1 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§2-7-402. Purpose - Public policy.

It is the policy of this state and the purpose of the Oklahoma Milk and Milk Products Act to regulate the quality and the minimum sanitary requirements of the production, processing, and distribution of milk and milk products in a manner that shall:

1. Protect the health, safety, and welfare of the consumer public; and

2. Allow Oklahoma milk and milk product producers, processors, and distributors to enjoy free trade and commerce. Added by Laws 1981, c. 43, § 2, emerg. eff. April 8, 1981. Amended by Laws 1987, c. 206, § 18, operative July 1, 1987; Laws 1987, c. 236, § 4, emerg. eff. July 20, 1987; Laws 1994, c. 140, § 5, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.2 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 68, emerg. eff. June 6, 2000.

§2-7-403. Definitions.

As used in the Oklahoma Milk and Milk Products Act:

1. "Bulk milk hauler/sampler" means any person collecting official samples who may transport raw milk from a farm or raw milk products to or from a milk plant, receiving station, or transfer station and has in his or her possession a permit from any state to sample these products;

2. "Dairy farm" means any premises owned or operated by a "milk producer" where one or more cows or goats are kept, and from which a part or all of the milk or milk products is sold or offered for sale;

3. "Goat milk" means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy goats;

4. "Grade A milk and milk products" means milk and milk products at any stage from production through pasteurization and packaging, that are of the minimum quality and are produced, hauled, processed and distributed under conditions which meet the requirements of the Oklahoma Milk and Milk Products Act;

5. "Inhibitor" means any chemical or antibiotic substance which inhibits or retards the growth of bacteria in milk;

6. "Milk" means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows, which contains not less than eight and one-fourth percent (8 1/4%) milk solids-not-fat and not less than three and one-fourth percent (3 1/4%) milk fat. The term "milk" shall include goat milk, fluid market milk, and milk products for the purpose of distribution to the consumer, and may contain optional ingredients defined by the State Board of Agriculture and shall include ungraded and Grade A milk;

7. "Milk contact surface" means any pipe, tank, equipment, or facility which contacts or may contact milk during the producing, transporting, processing, or distributing of milk and milk products;

8. "Milk distribution center" means any premises, owned or operated by a "milk distributor", which distributes and sells or offers to sell milk and milk products but does not include an establishment which sells or offers to sell Grade A milk and milk products at retail;

9. "Milk facility" means the producing, processing, transporting, or distributing premises and facilities which operate under an appropriate and valid permit issued by the Commissioner, in compliance with the Oklahoma Milk and Milk Products Act and the rules of the Board;

10. "Milk fat" or "butter fat" means the fat of milk;

11. "Milk plant" means any premises owned or operated by a "milk processor" where milk or milk products are collected, manufactured, processed, pasteurized, bottled, stored, or prepared for distribution for commercial purposes including, but not limited to, a receiving or transfer station;

12. "Milk products" means those products produced or obtained from milk or any component or product of milk and defined by the Board, including Grade A milk products, ungraded raw milk and ungraded milk products;

13. "Milk tank truck cleaning facility" means any premises or establishment, separate from a milk plant, receiving station, or transfer station, where a milk tank truck is cleaned and sanitized;

14. "Milk tank truck driver" means any person transporting raw or pasteurized milk products between a milk plant, receiving station, or transfer station;

15. "Milk transportation company" means any person responsible for a milk tank truck;

16. "Pasteurized milk" means Grade A raw milk which has been pasteurized and stored in accordance with the chemical, bacteriological, and temperature standards required by the Board;

17. "Receiving station" means any premises where raw milk is received, collected, handled, stored, or cooled and prepared for further transporting;

18. "Retail food store" means any establishment which offers for retail sale packaged or bulk food goods for human consumption;

19. "Transfer station" means any establishment or premises where milk or milk products are transferred directly from one milk tank truck to another; and

20. "Ungraded milk products" and "manufacture grade milk products" include, but are not limited to, butter, cheese, dry milk, condensed milk, filled or evaporated milk, frozen dairy dessert and mello-drink products.

Added by Laws 1981, c. 43, § 3, emerg. eff. April 8, 1981. Amended by Laws 1987, c. 206, § 19, operative July 1, 1987; Laws 1987, c. 236, § 5, emerg. eff. July 20, 1987; Laws 1994, c. 140, § 6, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.3 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 69, emerg. eff. June 6, 2000.

§2-7-404. Rules.

A. The State Board of Agriculture shall promulgate rules governing:

1. The production, transportation, processing, pasteurization, handling, identity, sampling, examination, labeling, marking, shipping statements, optional ingredients, definitions and sanitary conditions for milk and milk products;

2. The inspection and sanitary rating of dairy farms, bulk milk hauler/samplers, milk transportation companies, milk tank truck cleaning facilities, milk plants and distribution centers engaged in producing, transporting, processing and distributing milk and milk products;

3. The issuing, modifying, suspending and revoking of permits to producers, bulk milk hauler/samplers, milk transportation companies, milk tank truck cleaning facilities, processors and distributors of milk and milk products;

4. The approval of facilities therefor;

5. All cheese factories;

6. All modes of transportation used for the distribution of milk and cream to market; and

7. The labeling and packaging of milk and milk products.

B. The rules promulgated by the Board shall be in accord with the minimum standards and requirements for milk and milk products currently recommended and established by the United States Department of Health and Human Services, Food and Drug Administration, including the Recommended Grade A Pasteurized Milk Ordinance.

Added by Laws 1981, c. 43, § 4, emerg. eff. April 8, 1981. Amended by Laws 1987, c. 206, § 20, operative July 1, 1987; Laws 1987, c. 236, § 6, emerg. eff. July 20, 1987; Laws 1993, c. 145, § 350, eff. July 1, 1993; Laws 1994, c. 140, § 7, eff. Sept. 1, 1994. Renumbered from § 1-1301.4 of Title 63 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 70, emerg. eff. June 6, 2000; Laws 2019, c. 254, § 1, eff. Nov. 1, 2019.

§2-7-405. Commissioner - Power and duty.

The Commissioner of Agriculture shall have the power and duty to:

1. Administer and supervise the enforcement of the Oklahoma Milk and Milk Products Act;

2. Provide for periodic inspection and investigation as necessary to determine compliance with the Oklahoma Milk and Milk Products Act and to record each inspection on a form approved by the Commissioner. Every milk producer, bulk milk hauler/sampler, milk tank truck driver, milk transportation company, milk tank truck cleaning facility, milk processor, or milk distributor engaged in producing, transporting, processing, or distributing milk and milk products shall, upon request, permit access of the Commissioner to all areas of establishment, during normal business hours, to evaluate

compliance with the provisions of the Oklahoma Milk and Milk Products Act;

3. Secure and analyze samples of milk and milk products from any milk producer, bulk milk hauler/sampler, milk transportation company, milk tank truck cleaning facility, milk processor, or milk distributor. Milk and milk products packaged for retail sale to consumers shall not be taken without first paying or offering to pay for the sample;

4. Prohibit the producing, processing, and sale of adulterated milk and milk products;

5. Receive and investigate complaints;

6. Issue permits to the owner or operator of dairy farms, bulk milk hauler/sampler, milk tank truck driver, milk transportation company, milk tank truck cleaning facility, milk plants, milk distribution centers, and receiving or transfer stations to engage in the producing, transporting, processing, or distributing of milk and milk products upon receipt of permit applications and upon determining that these facilities are in compliance with the Oklahoma Milk and Milk Products Act and to modify, suspend, or revoke such permits;

7. Maintain laboratory reports of samples collected by the Commissioner, listings of permits issued, modified, suspended, and revoked;

8. Require submission, timely review, and approval, of plans, specifications, and other information relative to the construction or alteration of milk and milk product facilities, prior to the commencement of work;

9. Examine statements of the actual quantities of milk and milk products purchased and sold, lists of all sources of milk and milk products, and records of cleaning, tests, and pasteurization times and temperatures of appropriate facilities; and

10. Examine and approve laboratories to conduct those analyses required by the Oklahoma Milk and Milk Products Act.

Added by Laws 1981, c. 43, § 5, emerg. eff. April 8, 1981. Amended by Laws 1987, c. 206, § 21, operative July 1, 1987; Laws 1987, c. 236, § 7, emerg. eff. July 20, 1987; Laws 1994, c. 140, § 8, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.5 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 1994, c. 289, § 3, emerg. eff. June 6, 1994; Laws 2000, c. 367, § 71, emerg. eff. June 6, 2000.

§2-7-406. Sale of Grade A milk and milk products.

A. Only Grade A pasteurized milk and milk products or Grade A raw milk shall be sold to the final consumer; provided, however:

1. Only Grade A pasteurized milk shall be sold through restaurants, soda fountains, grocery stores, or similar establishments, including school lunch rooms; and

2. In an emergency, the sale of pasteurized milk and milk products which have not been graded, or the grade is unknown, may be authorized by the Commissioner of Agriculture so long as the milk and milk products shall be labeled "ungraded".

B. Approval by the Commissioner pursuant to rules promulgated by the State Board of Agriculture for the use of Grade A label on milk and milk products processed at any milk plant in accordance with the provisions of the Oklahoma Milk and Milk Products Act shall constitute an acceptable rating for all intrastate purposes. No sanitary requirement or standard issued pursuant to the Oklahoma Milk and Milk Products Act or by any governmental subdivision shall prohibit the sale of Grade A milk and milk products which are produced and processed under laws or rules of any governmental unit which are substantially equivalent to the requirements of the Oklahoma Milk and Milk Products Act, and which are enforced with equal effectiveness, as determined by a milk sanitation rating certified to the U.S. Department of Health and Human Services, Food and Drug Administration or its successor.

Added by Laws 1981, c. 43, § 6, emerg. eff. April 8, 1981. Amended by Laws 1994, c. 140, § 9, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.6 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 72, emerg. eff. June 6, 2000.

§2-7-407. Adulterated or misbranded milk or milk product.

A. Any Grade A milk or milk product shall be adulterated if:

1. It bears or contains any poisonous, deleterious, or inhibitor substance in a quantity which may render it injurious to health;

2. It bears or contains any added poisonous, inhibitor, or deleterious substance for which no safe tolerance has been established by state rule or federal regulations, or in excess of the tolerance if one has been established;

3. It consists, in whole or in part, of any substance unfit for human consumption;

4. It has been produced, processed, prepared, packed, held, or transported under unsanitary conditions;

5. Its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

6. Any substance has been added, mixed, packed, or any process applied to increase its bulk or weight, or reduce its quality, strength, or make it appear better or of greater value than it is.

B. Grade A milk and milk products shall be misbranded when:

1. Their containers bear or accompany any false or misleading written, printed, or graphic matter;

2. The milk and milk products do not conform to the definitions in the Oklahoma Milk and Milk Products Act;

3. The products are not labeled in accordance with the Oklahoma Milk and Milk Products Act; and

4. Products are labeled "Grade A" when the packaged products were filled from a dairy plant or milk plant which did not possess an appropriate and valid Grade A permit at the time the milk or milk product was produced or processed.

Added by Laws 1981, c. 43, § 7, emerg. eff. April 8, 1981. Amended by Laws 1994, c. 140, § 10, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.7 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 73, emerg. eff. June 6, 2000.

§2-7-408. Permits.

A. No person shall produce, haul, process, or distribute Grade A raw milk for pasteurization or milk and milk products, or hold oneself out as a milk producer, transporter, processor, or distributor or represent a dairy farm, bulk milk hauler/sampler, milk tank truck driver, milk transportation company, milk tank truck cleaning facility, milk plant, receiving or transfer station, milk distribution center, or milk or milk products as "Grade A" unless that person possesses an appropriate and valid permit for the particular premises or facilities concerned.

B. Applications for permits for dairy farms, bulk milk hauler/sampler, milk tank truck driver, milk transportation company, milk tank truck cleaning facility, milk plants, receiving or transfer stations, and milk distribution centers shall be submitted on a form approved by the State Board of Agriculture. Each applicant shall allow the Commissioner to inspect the applicable premises, records, and facilities. The Board shall inspect premises and facilities and issue the permit applied for when compliance is confirmed. The permits shall be issued without an expiration date except for the bulk milk hauler/sampler and milk tank truck driver permit that shall be effective for two (2) years. Permits shall not be transferable among persons or places.

C. The Board may issue permits, which shall be contingent upon continuing compliance, to facilities located outside this state which comply with the provisions of subsection B of Section 7-406 of this title. If an out-of-state facility requests, or if the facility is not certified, then the cost for all inspections necessary pursuant to this subsection shall be paid by those facilities and the amounts paid shall be deposited in the State Department of Agriculture Revolving Fund.

D. The Board shall issue permits and establish classifications for milk and milk products.

E. The Board shall promulgate rules to establish fees for permits and inspections pursuant to this section.

Added by Laws 1981, c. 43, § 8, emerg. eff. April 8, 1981. Amended by Laws 1987, c. 206, § 22, operative July 1, 1987; Laws 1987, c.

236, § 8, emerg. eff. July 20, 1987; Laws 1994, c. 140, § 11, eff. Sept. 1, 1994. Renumbered from § 1-1301.8 of Title 63 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 74, emerg. eff. June 6, 2000; Laws 2002, c. 173, § 5, emerg. eff. May 6, 2002; Laws 2010, c. 90, § 2, emerg. eff. April 12, 2010.

§2-7-409. Sampling and testing.

A. The Commissioner of Agriculture shall collect and analyze representative samples, at least four times in any consecutive six (6) months, of Grade A raw milk for pasteurization and Grade A milk and milk products from each Grade A dairy farm, or milk plant and shall collect and analyze representative Grade A milk and milk products, as required by the Oklahoma Milk and Milk Products Act and rules promulgated by the State Board of Agriculture.

B. Whenever two of the last four consecutive bacteria counts, somatic cell counts, coliform determinations, or cooling temperatures, taken on separate days, exceed the limit of the standard for the milk and milk products, the Commissioner shall send a written notice to the person concerned. This notice shall be in effect so long as two of the last four consecutive samples exceed the limit of the standard. An additional sample shall be taken within twenty-one (21) days of sending the notice, but not before the lapse of three (3) days.

C. Whenever a phosphatase test on Grade A pasteurized milk is positive, the cause shall be determined; and where the cause is improper pasteurization, it shall be corrected and any milk or milk product involved shall not be offered for sale as Grade A.

D. Whenever an inhibitor test is positive and confirmed, the cause shall be determined, any milk or milk product involved shall not be offered for sale as Grade A, and the dairy farm responsible shall not produce raw milk for Grade A purposes until the milk is found to be free of inhibitors.

E. Samples shall be analyzed in a laboratory approved by the Commissioner. All sampling procedures and required laboratory examinations shall be in substantial compliance with the latest edition of Standard Methods for the Examination of Dairy Products of the American Public Health Association and the latest edition of Official Methods of Analyses of the Association of Official Analytical Chemists. The procedures including the certification of sample collectors and the examinations shall be evaluated in accordance with the Evaluation of Milk Laboratories, 1995 Recommendations of the U.S. Public Health Service/Food and Drug Administration and its successors.

Added by Laws 1981, c. 43, § 9, emerg. eff. April 8, 1981. Amended by Laws 1994, c. 140, § 12, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.9 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 75, emerg. eff. June 6, 2000.

§2-7-410. Suspension of permit.

A. Since analytical results may not become available until after the milk and milk products reach retail stores and consumers, the Commissioner of Agriculture, for the imperative protection of public health, safety, and welfare, as defined in the Administrative Procedures Act, shall upon receipt of the analysis, notify and suspend the permit of a dairy farm or milk plant:

1. Which produced raw milk containing an inhibitor, for at least twenty-four (24) hours and until the cause is corrected and the raw milk is found to be free of inhibitors; or

2. Which produced or processed milk that, in any consecutive six (6) months, exceeded in three of the last five samples the limit of the standard for the milk, in accordance with Section 7-409 of this title for at least twenty-four (24) hours and until the dairy farm or milk plant is inspected and/or sampled and found to be in compliance.

B. The Commissioner shall notify and suspend the permit of a facility refusing to allow an inspection of the applicable premises as required by the Oklahoma Milk and Milk Products Act or upon a second consecutive inspection, conducted not less than seventy-two (72) hours nor more than twenty-one (21) days after the first inspection, disclosing gross neglect of cleaning of milk contact surfaces. This suspension shall continue until an inspection is allowed or the milk contact surfaces are found to be clean.

C. The Commissioner may suspend, revoke or refuse to renew a permit for continuing or multiple violations of the Oklahoma Milk and Milk Products Act, or suspend a Grade A permit to protect the public health, safety, or welfare.

Added by Laws 1981, c. 43, § 10, emerg. eff. April 8, 1981. Amended by Laws 1987, c. 206, § 23, operative July 1, 1987; Laws 1987, c. 236, § 9, emerg. eff. July 20, 1987; Laws 1994, c. 140, § 13, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.10 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 76, emerg. eff. June 6, 2000.

§2-7-411. Persons affected with communicable disease.

A. No person affected with any disease capable of being transmitted to others through the contamination of food shall work at any dairy farm or milk plant in any capacity which brings that person into contact with the equipment involved or employees engaged in the producing, handling, storing, or transporting of milk, milk products, containers, equipment, and utensils; and no milk producer or milk plant operator shall employ in any capacity any affected person, any person suspected of having any disease capable of being transmitted to others through the contamination of food, or of being a carrier of communicable diseases. Any milk producer, processor, or distributor who suspects that any employee has contracted any disease or has

become a carrier of a disease capable of being transmitted to others through the contamination of food shall notify the Commissioner of Agriculture immediately.

B. When reasonable cause exists to suspect the possibility of transmission of infection from any person concerned with the handling of milk and milk products, the Commissioner is authorized to require any or all of the following measures:

1. The immediate exclusion of that person from milk handling;

2. The immediate exclusion of the milk supply concerned from distribution and use; and

3. Adequate medical examination and testing of the person, of his or her associates, and of the bodily discharges of both.

Added by Laws 1981, c. 43, § 11, emerg. eff. April 8, 1981. Amended by Laws 1994, c. 140, § 14, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.11 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 77, emerg. eff. June 6, 2000.

§2-7-412. Herds - Diseased animals.

A. All milk for pasteurization and for Grade A raw distribution shall be from herds located in a Modified Accredited Tuberculosis Area as determined by the U.S. Department of Agriculture; provided, that herds located in an area that fails to maintain accredited status shall have been certified by the United States Department of Agriculture as tuberculosis-free, or shall have an annual negative tuberculosis test.

B. All milk for pasteurization and for Grade A raw distribution shall be from herds participating in Brucellosis Milk Surveillance program for brucellosis eradication which is conducted on a continuing basis at intervals of not less than every three (3) months or more than every six (6) months. Individual blood tests may be required on all animals in herds showing positive reactions to the Brucellosis Milk Surveillance test.

C. For diseases other than brucellosis and tuberculosis, the Commissioner shall require physical, chemical, or bacteriological tests as necessary. The diagnosis of other diseases in dairy cattle shall be based upon the findings of a licensed veterinarian or a veterinarian in the employ of an official agency.

D. Any diseased animal disclosed by the test shall be disposed of as the State Veterinarian directs.

Added by Laws 1981, c. 43, § 12, emerg. eff. April 8, 1981. Amended by Laws 1994, c. 140, § 15, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.12 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 78, emerg. eff. June 6, 2000.

§2-7-413. Violations.

It shall be unlawful for any person to knowingly, willfully or recklessly:

1. Attempt to produce, haul, process or distribute milk or milk products without an appropriate and valid permit;
2. Sell, offer or expose for sale as Grade A any adulterated or misbranded milk or milk product;
3. Sell, offer, expose for sale or serve milk and milk products which have not been maintained at or below the temperature specified by the State Board of Agriculture;
4. Dip or ladle Grade A milk and milk products;
5. Transfer Grade A milk and milk products at any location other than a permitted Grade A facility designed and equipped for such purpose;
6. Prevent, interfere or attempt to impede the Commissioner from investigating and enforcing the Oklahoma Milk and Milk Products Act;
7. Sell or serve Grade A milk and milk products from other than the individual container, or approved bulk dispenser, received from the distributor; or
8. Violate any provision of the Oklahoma Milk and Milk Products Act.

Added by Laws 1981, c. 43, § 13, emerg. eff. April 8, 1981. Amended by Laws 1987, c. 206, § 24, operative July 1, 1987; Laws 1987, c. 236, § 10, emerg. eff. July 20, 1987; Laws 1994, c. 140, § 16, eff. Sept. 1, 1994. Renumbered from § 1-1301.13 of Title 63 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 79, emerg. eff. June 6, 2000; Laws 2019, c. 254, § 2, eff. Nov. 1, 2019.

§2-7-414. Construction of act.

A. The provisions of the Oklahoma Milk and Milk Products Act shall not be construed to:

1. Include incidental sales of raw milk directly to consumers at the farm where the milk is produced;
2. Preclude the advertising of the incidental sale of goat milk; and
3. Prohibit any farmer or producer from making cheese using milk or cream produced on the farm of such farmer or producer.

B. For purposes of this section, incidental sales of goat milk are those sales where the average monthly number of gallons sold does not exceed one hundred (100).

Added by Laws 1981, c. 43, § 14, emerg. eff. April 8, 1981. Amended by Laws 1987, c. 206, § 25, operative July 1, 1987; Laws 1987, c. 236, § 11, emerg. eff. July 20, 1987; Laws 1989, c. 182, § 1, operative July 1, 1989; Laws 1994, c. 140, § 17, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.14 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 80, emerg. eff. June 6, 2000.

§2-7-415. Fees.

A. A fee of one cent (\$0.01) shall be assessed on each one hundred (100) pounds of raw milk produced in this state. Each co-op, marketing agent, or processing plant where the raw milk is not collected by a co-op or marketing agent, doing business in Oklahoma shall pay the fees each calendar month to the Commissioner of Agriculture to be credited to the Milk and Milk Products Inspection Revolving Fund of the State Treasury.

B. There is hereby assessed a fee of one cent (\$0.01) on each one hundred (100) pounds of Grade A milk or milk products processed or offered for retail sale in Oklahoma. Each milk plant doing business in Oklahoma shall pay the fees each calendar month to the Commissioner to be credited to the Milk and Milk Products Inspection Revolving Fund of the State Treasury.

C. A fee assessed on each one hundred (100) pounds of milk or milk products produced or processed in another state and imported into Oklahoma shall be the same amount assessed on milk or milk products shipped to that state from Oklahoma. The person shipping or causing the shipment of milk or milk products shall be responsible for paying the fees semi-annually on January 1 and July 1 of each year to the Commissioner and be credited to the Milk and Milk Products Inspection Revolving Fund of the State Treasury.

Added by Laws 1987, c. 206, § 26, operative July 1, 1987. Amended by Laws 1987, c. 236, § 12, emerg. eff. July 20, 1987; Laws 1994, c. 140, § 18, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.15 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 81, emerg. eff. June 6, 2000.

§2-7-416. Milk and Milk Products Inspection Revolving Fund.

There is hereby created in the State Treasury a revolving fund to be known as the "Milk and Milk Products Inspection Revolving Fund". The fund shall be a continuing fund not subject to fiscal year limitations and is appropriated and may be budgeted and expended by the Commissioner of Agriculture for the purpose of administering and enforcing the Oklahoma Milk and Milk Products Act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1987, c. 206, § 27, operative July 1, 1987. Amended by Laws 1987, c. 236, § 13, emerg. eff. July 20, 1987; Laws 1994, c. 140, § 19, eff. Sept. 1, 1994. Renumbered from § 1-1301.16 of Title 63 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 82, emerg. eff. June 6, 2000; Laws 2012, c. 304, § 7.

§2-7-417. Permits required.

No person shall produce, haul, process or distribute ungraded raw milk or milk products or hold himself out as an ungraded milk

producer, hauler, processor or distributor unless such person possesses an appropriate and valid permit for the particular premises or facilities concerned. The processing of permit applications and inspections shall be similar to the Grade A permit process.

Added by Laws 1987, c. 206, § 28, operative July 1, 1987. Amended by Laws 1987, c. 236, § 14, emerg. eff. July 20, 1987; Laws 1994, c. 140, § 20, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.17 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§2-7-418. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-7-419. Quarantine of dairy products - Condemnation actions - Costs - Correction of violation - Bond.

A. Whenever the Commissioner of Agriculture finds any dairy product, in whole or in part, that fails to meet the requirements of the Oklahoma Milk and Milk Products Act, or that a product is handled in violation of law or rules of the State Board of Agriculture, a tag or other appropriate marking shall be affixed which shall give notice that the dairy product is, or is suspected of, being manufactured, produced, handled, sold, or offered for sale in violation of law or rules of the Board, and is quarantined, and warning all persons not to remove or dispose of the dairy product until permission for removal or disposal is given by the Commissioner. It shall be unlawful for any person to remove or dispose of the dairy product quarantined without permission.

B. If the Commissioner finds that dairy product quarantined pursuant to subsection A of this section does not meet the requirements of law, or the rules, the Commissioner may institute an action in the district court in whose jurisdiction the dairy product is quarantined, for the condemnation and destruction of the dairy product. If the Commissioner finds that the dairy product quarantined does meet the requirements of law and the rules, the Commissioner shall remove the quarantine. In any court proceeding regarding a quarantine, the State Department of Agriculture or the Commissioner, shall not be held liable if the court finds probable cause for the quarantine.

C. If the court finds that a quarantined dairy product, in whole or in part, is in violation of the law, the dairy product shall be destroyed at the expense of the owner or defender, under the supervision of the Commissioner. All court costs, fees, cost of storage, and other proper expenses shall be paid by the owner or defender of the dairy product. The court may order that the dairy product be delivered to the owner or defendant for appropriate labeling or processing under the supervision of the Commissioner if the violation can be corrected by proper processing of the dairy product, all costs, fees, and expenses have been paid, and a

sufficient bond is executed and conditioned for appropriate labeling or processing as the court may require. The expense of supervision shall be paid to the Commissioner by the person obtaining release of the dairy product under bond.

Added by Laws 1955, p. 53, art. 7(A), § 5. Amended by Laws 1987, c. 206, § 30, operative July 1, 1987; Laws 1987, c. 236, § 16, emerg. eff. July 20, 1987. Renumbered from Title 2, § 7-5 by Laws 1987, c. 206, § 97, operative July 1, 1987. Amended by Laws 1987, c. 236, § 205, emerg. eff. July 20, 1987; Laws 1994, c. 140, § 22, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.19 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 83, emerg. eff. June 6, 2000.

§2-7-420. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-7-421. Official state agency.

The Oklahoma State Department of Agriculture is hereby designated as the official state agency of this state for purposes of cooperating with and implementing the dairy inspection and grading program under the jurisdiction of the United States Department of Agriculture.

Added by Laws 1994, c. 289, § 4, emerg. eff. June 6, 1994.

§2-8-1. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-8-21. Definitions.

As used in this subarticle:

1. "Advertisement" means all representations, other than those on the label, disseminated in any manner or by any means relating to seed;
2. "Agricultural seeds" means the seeds of grass, forage, cereal and fiber crops, and any other kinds of seeds commonly recognized within this state as agricultural seeds, lawn seeds, and mixtures of seeds;
3. "Certified seed", "registered seed", and "foundation seed" means seed that has been produced and labeled in accordance with the procedures and rules of an officially recognized seed-certifying agency or association;
4. "Coated seed" means a seed unit covered with any substance which changes the size, shape, or weight of the original seed. Seeds coated with ingredients including, but not limited to, rhizobia, dyes, and pesticides are excluded;
5. "Germination" means the percent of seeds capable of producing normal seedlings under ordinarily favorable conditions;

6. "Kind" means one or more related species or subspecies which singly or collectively is known by one common name, for example, corn, wheat, lespedeza, alfalfa, and fescue;

7. "Labeling" means all written, printed, or graphic representations accompanying and pertaining to any seed in bulk or in containers and includes, but is not limited to representations on invoices;

8. "Lot" means a definite quantity of seed identified by a lot number or other mark, every portion or bag of which is uniform within recognized tolerances for the factors which appear in the labeling;

9. "Noxious weed seeds" shall be divided into two classes, "prohibited noxious weed seeds" and "restricted noxious weed seeds" as defined in subparagraphs (a) and (b) of this paragraph. The State Board of Agriculture may promulgate rules that add to or subtract from the list of seeds included under either definition:

- (a) prohibited noxious weed seeds are the seeds of weeds which reproduce by seeds and spread by underground roots, stems, or other reproductive parts. When established, noxious weed seeds are highly destructive and difficult to control in this state by ordinary good cultural practice, and are prohibited by this subarticle subject to recognized tolerances, and
- (b) restricted noxious weed seeds are the seeds of weeds which are very objectionable in fields, lawns, and gardens of this state, but can be controlled by good cultural practice;

10. "Pure seed" means agricultural and vegetable seeds, exclusive of inert matter, and all other seeds not of the kinds, or kinds and varieties, being considered;

11. "Record" means all information relating to lot, identification, source, origin, variety, amount, processing, testing, labeling, distribution, and a file sample of the seed;

12. "Seizure" means a legal process carried out by court order or Board order against a specific quantity of seed;

13. "Stop sale" means an administrative order provided by law restraining the sale, use, disposition, and movement of a specific quantity of seed;

14. "Treated seed" means seed that has been treated with an approved substance or subjected to a process designed to control or repel plant disease organisms, insects, or other pests attacking the seed or plants or will improve the planting value of the seed;

15. "Variety" means a subdivision of a kind characterized by growth, yield, plant, fruit, seed, or other characteristics by which it can be differentiated from other plants of the same kind;

16. "Vegetable seeds" means seeds of those crops which are grown in gardens and on truck farms and are generally known and sold under the name of vegetable seeds in this state; and

17. "Weed seeds" means the seeds of all plants generally recognized as undesirable within this state and includes noxious weed seeds.

Added by Laws 1955, p. 64, art. 8(B), § 1. Amended by Laws 1983, c. 84, § 1, eff. Nov. 1, 1983; Laws 2000, c. 367, § 84, emerg. eff. June 6, 2000.

§2-8-22. Containers to bear label or tag - Label information.

A. Each bag, container, package, or bulk of agricultural seed transported, sold, offered for sale, or exposed for sale by any person within the State of Oklahoma for planting purposes, shall have, bear, or have attached in a conspicuous place, a plainly written or printed label or tag giving the following information, which shall not be modified or disclaimed in the labeling on the bag or container.

B. For treated seed, separate labeling shall show:

1. A word or statement that the seed has been treated;
2. The name or "coined name" of the treatment;
3. If harmful, the label must show the statement "Not to be Used for Feed or Food", and if poisonous materials are used, the label must show a caution statement stating words "Poison Treated".

C. For agricultural seeds separate labeling shall show:

1. Commonly accepted name as to kind, or kind and variety, of each agricultural seed component in excess of five percent (5%) of the whole. If more than one component is present in excess of five percent (5%) of the whole, the word "mixture" or "mixed" shall be shown conspicuously on the tag or label;
2. Net weight;
3. Lot number or other lot identification;
4. Origin, including state or foreign country where grown. If the origin is unknown, that fact shall be stated;
5. Percentage pure seed;
6. Percentage by weight of inert matter;
7. Percentage by weight of agricultural seed, other than the one required to be named on the label (designated as "other crop seed");
8. Percentage by weight of all weed seeds;
9. The name and rate of occurrence of each kind of restricted noxious weed seed per pound when present in any amount;
10. For each named agricultural seed:
 - a. percentage of germination, exclusive of hard seed,
 - b. percentage of hard seed, if present, and
 - c. the calendar month and year the test was completed to determine percentages;
11. Following (A) and (B), above, the "total germination and hard seed" may be stated if desired; and

12. Name and address of the person or vendor who labeled the seed or who sells, offers, or exposes the seed for sale within the state.

D. For vegetable seeds labeling shall show:

1. Net weight;

2. Name of kind and variety of seed; and

3. For seeds which germinate less than the standard last established by the State Board of Agriculture:

a. percentage of germination, exclusive of hard seed,

b. percentage of hard seed, if present,

c. the calendar month and year the test was completed to determine the percentages,

d. the words "below standard" in not less than eight-point type, and

e. name and address of the person who labels the seed, or who sells, offers, or exposes the seed for sale within this state.

E. For coated seed. In addition to the required labeling for agricultural and vegetable seeds, when the seeds have been coated, labeling shall show:

1. A word statement that seeds have been coated; and

2. Percentage by weight of inert coating material.

Added by Laws 1955, p. 65, art. 8(B), § 2. Amended by Laws 1983, c. 84, § 2, eff. Nov. 1, 1983; Laws 2000, c. 367, § 85, emerg. eff. June 6, 2000.

§2-8-23. Unlawful acts.

A. It shall be unlawful for any person to sell, offer for sale, or expose for sale any agricultural seed or vegetable seed within this state:

1. Unless a license has been obtained in accordance with the provisions of Sections 8-21 through 8-29 of this title;

2. Unless the date of test to determine the percentage of germination is not more than nine (9) months prior to the sale, except the date of test for hermetically sealed containers may be thirty-six (36) months prior to sale;

3. Not labeled in accordance with the provisions of this subarticle and rules, or having a false or misleading label;

4. When there has been a false or misleading advertisement; or

5. Treated with any substance designed to control or repel plant disease organisms or insects or other pests unless each container bears a label giving information in the form prescribed by rules of the State Board of Agriculture, to show the name of the substance and if the substance may be harmful to humans or animals, a warning or caution statement adequate to protect the public.

B. It shall be unlawful for any person within this state:

1. To sell agricultural or vegetable seed that does not meet the minimum standards of germination and purity, and the maximum for inert matter and weed seed, prescribed in rules promulgated under the provisions of this subarticle;

2. To sell agricultural or vegetable seed containing prohibited noxious weed seeds or restricted noxious weed seeds, subject to recognized tolerances, in excess of the amount allowed as prescribed in rules promulgated under the provisions of this subarticle;

3. To detach, alter, deface, or destroy any label required or provided for in this subarticle or the rules;

4. To alter or substitute seed in a manner that may defeat the purposes of this subarticle;

5. To disseminate any false or misleading advertisement concerning agricultural seed or vegetable seed in any manner or by any means;

6. To fail to comply with a "stop-sale" order made by the Board on agricultural seed or vegetable seed sold, offered for sale, or exposed for sale; or to move, handle, or dispose of any lot of seed held under a "stop-sale" order except with the permission of the Board and for the purposes specified;

7. To fail to keep complete records of each lot of seed or make available for inspection the records of origin, testing, variety, distribution, seed samples, invoices, and other pertinent records or information, to the Board; or

8. To sell, offer, or expose for sale any seed labeled "certified seed", "registered seed", or "foundation seed", unless it has been produced and labeled in compliance with the rules of an officially recognized seed-certifying agency or association. Added by Laws 1955, p. 66, art. 8(B), § 3. Amended by Laws 1971, c. 34, § 1, operative July 1, 1971; Laws 2000, c. 367, § 86, emerg. eff. June 6, 2000.

§2-8-24. Records - File samples - Inspection.

Each person whose name appears on the label and handles agricultural and vegetable seed subject to this subarticle shall keep, for a period of at least two (2) years, complete records of each lot of agricultural or vegetable seed handled, and shall keep for at least one (1) year a file sample of each lot of seed after final disposition. All records pertaining to the lot or lots involved shall be accessible for inspection by the State Board of Agriculture during customary business hours.

Added by Laws 1955, p. 67, art. 8(B), § 4. Amended by Laws 2000, c. 367, § 87, emerg. eff. June 6, 2000.

§2-8-25. Penalty exemptions - Provision exceptions.

A. No person shall be subject to the penalties of this subarticle for having sold, offered, or exposed for sale in this

state any agricultural seed or vegetable seed which is incorrectly labeled or represented as to kind, kind and variety, or origin which cannot be identified by examination, unless the person failed to obtain an invoice or grower's declaration giving kind, or kind and variety, and origin, and to take precautions necessary or required to insure the identity and variety of the seed.

B. The provisions of Sections 8-22 and 8-23 of this title shall not apply:

1. To seed sold by a farmer or grower to a seed dealer or processor, or in storage in, or consigned to, a seed cleaning or processing establishment for cleaning or processing; provided, that any labeling or other representation which may be made with respect to uncleaned seed shall be subject to the provisions of this subarticle.

2. To any carrier in respect to any seed transported or delivered for transportation in the ordinary course of its business as a carrier, if the carrier is not engaged in producing, processing, or marketing agricultural or vegetable seed.

Added by Laws 1955, p. 67, art. 8(B), § 5. Amended by Laws 2000, c. 367, § 88, emerg. eff. June 6, 2000.

§2-8-26. Powers of Board and agents.

The State Board of Agriculture shall have authority:

1. To sample, test, make analysis of, and inspect any agricultural seed or vegetable seed transported, sold, offered or exposed for sale within this state for planting purposes, at any time and place and to any extent necessary to determine whether the agricultural seed or vegetable seed are in compliance with the provisions of this subarticle and rules promulgated thereto;

2. To issue and enforce a written or printed "stop-sale" order to the person or vendor of any agricultural seed or vegetable seed which is in violation of any of the provisions of this subarticle or rules promulgated thereto; provided, that no "stop-sale" order shall be issued or attached to any seed without first giving the vendor an opportunity to comply with the provisions of this subarticle or to withdraw the seed from sale;

3. To furnish adequate facilities for seed testing and to employ qualified persons for making the tests;

4. To publish or cause to be published the results of the examination, analysis, and test of any agricultural or vegetable seed sampled in accordance with the provisions of this subarticle, together with any other information that the Board may deem advisable;

5. To cooperate with the United States Department of Agriculture in the enforcement of the Federal Seed Act where mutual understanding is reached by written cooperative agreement;

6. To issue a license to any person upon payment of Twenty-five Dollars (\$25.00) for each license of a retail seed dealer or One Hundred Dollars (\$100.00) for each license of a retail-wholesale seed dealer to be applied for by each seed dealer upon forms furnished for that purpose. Out-of-state wholesale and retail seed dealers who sell or ship agricultural or vegetable seed into this state shall obtain a license in the same manner. A separate license shall be required for each place of business. Each license shall expire on a date to be determined by the Board. Any license issued under the provisions of this subarticle may be revoked by the Board upon satisfactory proof that the licensee has violated any of the provisions of this subarticle or any of the rules;

7. To provide that any person in this state shall have the privilege of submitting seed samples for test, subject to the charges made for samples submitted as prescribed in rules promulgated by the Board;

8. To provide that any agricultural or vegetable seeds sold, distributed, offered for sale, or exposed for sale in this state, the person or vendor responsible for labeling and distributing the seed shall pay an inspection fee of not to exceed eight cents (\$0.08) per hundred-pound weight. Every person responsible for labeling and distributing seed to a retail seed licensee in Oklahoma, or each retail seed licensee who processes and sells seed to the consumer on which the inspection fee has not been paid, shall file not later than the last day of January and July a semiannual affidavit, setting forth the number of pounds of seed sold for the preceding six (6) calendar months; and upon filing this statement shall pay the inspection fee required. Each person labeling and distributing seed shall keep records required by the Board to indicate accurately the number of pounds of seed sold;

9. To examine records and to verify the statement of the number of pounds of seed sold and the inspection fee reported. The form of the statement for reporting and paying the seed inspection fees on a semiannual basis shall be prescribed in rules of the Board. Failure to make an accurate statement of the number of pounds of seed sold and payment of the inspection fee shall be a misdemeanor, and constitute sufficient cause for the revocation of the person's Oklahoma Seed License and to take any other appropriate action provided under the law. An inspection fee penalty of ten percent (10%) of the amount due or Ten Dollars (\$10.00), whichever is greater, shall be assessed if the semiannual statement is not submitted when due; and

10. To collect all fees and other money as provided in this subarticle and deposit the monies in the State Department of Agriculture Revolving Fund.

Added by Laws 1955, p. 67, art. 8(B), § 6, emerg. eff. June 3, 1955. Amended by Laws 1971, c. 34, § 2, operative July 1, 1971; Laws 1983,

c. 84, § 3, eff. Nov. 1, 1983; Laws 2000, c. 367, § 89, emerg. eff. June 6, 2000; Laws 2004, c. 109, § 4.

§2-8-26.1. State preemption - Exception for taxation.

A. The Legislature hereby occupies and preempts the entire field of legislation in this state touching in any way the regulation and enforcement of the registration, labeling, sale, storage, transportation, distribution, notification of use, and use of seeds to the complete exclusion of any order, ordinance or regulation by any municipality or other political subdivision of this state.

B. No political subdivision shall regulate the registration, packaging, labeling, sale, storage, distribution, use or application of seeds. No political subdivision shall adopt or continue in effect local orders, ordinances, or regulations in this field, except for those relating to taxation relating to registration, packaging, labeling, sale, storage, distribution, use or application of seeds. Local legislation in violation of this section is void and unenforceable.

Added by Laws 2005, c. 58, § 1, eff. Nov. 1, 2005.

§2-8-27. Seizure - Condemnation.

Any agricultural seed or vegetable seed sold, offered for sale, or exposed for sale in violation of any of the provisions of this subarticle or rules promulgated thereto shall be subject to seizure on petition of the State Board of Agriculture to a court in the locality in which the seed is located. If the court finds the seed to be in violation of this subarticle and orders the condemnation of the seed, the seed shall be destroyed, reprocessed, relabeled, or disposed of in compliance with the laws of this state and as directed by the court.

Added by Laws 1955, p. 68, art. 8(B), § 7. Amended by Laws 2000, c. 367, § 90, emerg. eff. June 6, 2000.

§2-8-28. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-8-29. Minor violations - Deficient inspection fees.

A. Nothing in Sections 8-21 through 8-28 of this title shall be construed as requiring the State Board of Agriculture or any authorized agent to report, for prosecution, or for the institution of seizure proceedings, minor violations of Sections 8-21 through 8-28 of this title when the Board determines that the public interest will best be served by a suitable notice of violation or written warning.

B. If the State Board of Agriculture finds any deficient inspection fees due, as a result of an audit of the records of any person subject to the provisions of Sections 8-21 through 8-28 of

this title, 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.

Added by Laws 1955, p. 69, art. 8(B), § 9. Amended by Laws 1986, c. 151, § 1, eff. Nov. 1, 1986; Laws 2000, c. 367, § 91, emerg. eff. June 6, 2000.

§2-8-31. Use of term "certified" - Certification by foreign inspection agency - State agencies for certification.

No person shall use the term "certified", alone or with other words, or use any other term or words which suggest certification by a designated inspection agency, orally or in writing, relative to any agricultural or vegetable seeds, any tubers for seeding purposes, or plants or plant parts, sold or advertised for sale in Oklahoma, except as provided by this subarticle. If the seeds, tubers, plants, or plant parts were produced in another state or foreign country, certification by the legally constituted certification officials of a state, country, or of the United States, shall be sufficient.

Certification in Oklahoma shall be by the Agricultural Experiment Station and the Agricultural Extension Service of the Oklahoma State University, Division of Agricultural Sciences and Natural Resources, or by an agency which they designate.

Added by Laws 1963, c. 229, § 1, emerg. eff. June 12, 1963. Amended by Laws 2001, c. 146, § 10, emerg. eff. April 30, 2001.

Renumbered from § 788.1 of this title by Laws 2001, c. 146, § 248, emerg. eff. April 30, 2001.

§2-8-32. Persons subject to subarticle - Certification, what constitutes.

Every person who issues, uses, or circulates any certificate, advertisement, tag, seal, poster, letterhead, marketing circular, written or printed representation, or description pertaining to seeds, tubers, plants, or plant parts intended for propagation or sale, which contains signs, symbols, maps, diagrams, pictures, words, or phrases, including but not limited to "Oklahoma State Certified", "State Certified", or "Oklahoma Certified", which expressly or impliedly state or represent that the seeds or plant parts comply with the standards or requirements approved by the Agricultural Experiment Station and the Agricultural Extension Service of the Oklahoma State University, Division of Agricultural Sciences and Natural Resources, shall be subject to the provisions of this subarticle. Every issuance, use, or circulation of any certificate or any other instrument, as described in this section, shall be "certification".

Added by Laws 1963, c. 229, § 2, emerg. eff. June 12, 1963. Amended by Laws 2001, c. 146, § 11, emerg. eff. April 30, 2001. Renumbered from § 788.2 of this title by Laws 2001, c. 146, § 248, emerg. eff. April 30, 2001.

§2-8-33. Compliance with rules and requirements - Single certification agency for one crop - State agencies as sole authority.

Every person subject to the provisions of this subarticle shall comply with all rules and requirements specified by the Agricultural Experiment Station and the Agricultural Extension Service of the Oklahoma State University, Division of Agricultural Sciences and Natural Resources regarding:

1. What crops grown or to be grown in Oklahoma shall be eligible for certification;

2. The process of certification, either by Oklahoma State University directly or by agents or agencies authorized by it for the purpose; and

3. Standards, requirements, and forms for certification. Not more than one agent or agency for certification shall be designated for any one specified crop. No certification within the provisions of this subarticle shall be made or authorized except through the Agricultural Experiment Station and the Agricultural Extension Service of the Oklahoma State University, Division of Agricultural Sciences and Natural Resources.

Added by Laws 1963, c. 229, § 3, emerg. eff. June 12, 1963. Amended by Laws 2001, c. 146, § 12, emerg. eff. April 30, 2001.

Renumbered from § 788.3 of this title by Laws 2001, c. 146, § 248, emerg. eff. April 30, 2001.

§2-8-34. Self-supporting basis.

Certification work, whether conducted by the Agricultural Experiment Station and the Agricultural Extension Service of the Oklahoma State University, Division of Agricultural Sciences and Natural Resources, or by an agency designated by them, shall be on a self-supporting basis and shall not be performed for financial profit.

Added by Laws 1963, c. 229, § 4, emerg. eff. June 12, 1963. Amended by Laws 2001, c. 146, § 13, emerg. eff. April 30, 2001.

Renumbered from § 788.4 of this title by Laws 2001, c. 146, § 248, emerg. eff. April 30, 2001.

§2-8-35. Nonliability of state agencies.

The Agricultural Experiment Station and the Agricultural Extension Service of the Oklahoma State University, Division of Agricultural Sciences and Natural Resources shall not be financially responsible for debts incurred by, damages inflicted by, or contracts

broken by designated certifying agencies in conducting certification work as authorized by this subarticle.

Added by Laws 1963, c. 229, § 5, emerg. eff. June 12, 1963. Amended by Laws 2001, c. 146, § 14, emerg. eff. April 30, 2001. Renumbered from § 788.5 of this title by Laws 2001, c. 146, § 248, emerg. eff. April 30, 2001.

§2-8-36. Penalties.

It shall be unlawful for any person to issue, make, use, or circulate any certification without the authority and approval of the Agricultural Experiment Station and the Agricultural Extension Service of the Oklahoma State University, Division of Agricultural Sciences and Natural Resources, or its duly authorized agency. Every person who violates any of the provisions of this subarticle pertaining to certification shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each offense.

Added by Laws 1963, c. 229, § 6, emerg. eff. June 12, 1963. Amended by Laws 2001, c. 146, § 15, emerg. eff. April 30, 2001. Renumbered from § 788.6 of this title by Laws 2001, c. 146, § 248, emerg. eff. April 30, 2001.

§2-8-36.1. Definitions.

For the purposes of this subarticle, "fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any fungi or bacteria.

Added by Laws 1959, p. 5, § 1. Amended by Laws 2001, c. 146, § 16, emerg. eff. April 30, 2001. Renumbered from § 791 of this title by Laws 2001, c. 146, § 248, emerg. eff. April 30, 2001.

§2-8-36.2. Chemically treated seed to be sold separately - Marking.

It shall be unlawful to distribute, sell, or offer for sale, for other than seeding purposes, within the State of Oklahoma, any barley, corn, cotton, oats, peanuts, rye, sorghums, soybeans, wheat, or other seed, cereals, or grain that has been treated with a fungicide, unless it is sold separately from untreated seed or grain, and a certificate, affidavit, or tag accompanies the sale stating that the grain, seed, or cereal has been chemically treated and cannot be used for "food, feed, or oil purposes".

Added by Laws 1959, p. 5, § 2. Amended by Laws 2001, c. 146, § 17, emerg. eff. April 30, 2001. Renumbered from § 792 of this title by Laws 2001, c. 146, § 248, emerg. eff. April 30, 2001.

§2-8-36.3. Penalty.

Any person violating any of the provisions of this subarticle shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than One Thousand Dollars (\$1,000.00).

Added by Laws 1959, p. 5, § 3. Amended by Laws 2001, c. 146, § 18, emerg. eff. April 30, 2001. Renumbered from § 793 of this title by Laws 2001, c. 146, § 248, emerg. eff. April 30, 2001.

§2-8-41.1. Short title.

This act shall be known and may be cited as the "Oklahoma Commercial Feed Law".

Added by Laws 1984, c. 15, § 1, eff. July 1, 1985.

§2-8-41.2. Administration of act.

This act shall be administered by the Board of Agriculture of the State of Oklahoma, hereinafter referred to as the "Board".

Added by Laws 1984, c. 15, § 2, eff. July 1, 1985.

§2-8-41.3. Definitions.

As used in the Oklahoma Commercial Feed Law:

1. "Brand name" means any word, name, symbol, device, or combination identifying the commercial feed of a distributor or licensee;

2. "Commercial feed" means all materials except whole seeds unmixed or physically altered entire unmixed seeds, when not adulterated within the meaning of paragraph 1 of Section 8-41.7 of this title, which are distributed for use as feed or for mixing in feed. The term "commercial feed" shall not include:

- a. any feed or any ingredient of feed which is to be used by a contract feeder and fed to livestock and poultry, owned solely by the manufacturer of the feed, or
- b. hay, straw, stover, silage, cobs, husks, hulls, individual chemical compounds or substances or other such commodities when these ingredient sources are not intermixed or mixed with other materials, and are not adulterated within the meaning of Section 8-41.7 of this title, such commodities shall also be exempt from the provisions of this subarticle;

3. "Contract feeder" means a person who as an independent contractor feeds animals pursuant to a contract, the feed is supplied, furnished, or provided to another person and the feeder's remuneration is determined solely or in part by feed consumption, mortality, profits, or amount or quality of product;

4. "Customer-formula feed" means commercial feed consisting of a mixture of commercial feeds or feed ingredients. Each batch is manufactured according to the specific instructions of the final purchaser;

5. "Deleterious substance" means any substance including, but not limited to, dust, dirt, filth, or excrement derived from insects, birds, except domestic poultry litter, rodents, or other animals that may render a feed material harmful or injurious when consumed by animals;

6. "Distribute" means to offer for sale, sell, exchange, barter, supply, furnish, or provide commercial feed;

7. "Distributor" means any person who distributes feed or feed ingredients;

8. "Drug" means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than humans and articles other than feed intended to affect the structure or any function of the animal body;

9. "Feed ingredient" means each of the constituent materials making up a commercial feed;

10. "Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed;

11. "Labeling" means all labels and other written, printed, or graphic matter upon commercial feed or any of its containers or wrappers accompanying the commercial feed;

12. "Manufacture" means to grind, mix or blend, or further process a commercial feed for distribution;

13. "Mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients;

14. "Official sample" means any sample of feed taken by an authorized agent of the State Board of Agriculture;

15. "Percent" or "percentages" means a portion of each hundred units of weight;

16. "Pet" means any domesticated animal normally maintained in or near the household of the animal's owner;

17. "Pet food" means any commercial feed prepared and distributed for consumption by dogs or cats;

18. "Product name" means the name of the commercial feed which identifies it as to kind, class, or specific use;

19. "Specialty pet" means any domesticated animal pet normally maintained in a cage or tank, including, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes, and turtles;

20. "Specialty pet food" means any commercial feed prepared and distributed for consumption by specialty pets; and

21. "Ton" means a net weight of two thousand (2,000) pounds avoirdupois.

Added by Laws 1984, c. 15, § 3, eff. July 1, 1985. Amended by Laws 1986, c. 125, § 1, eff. Nov. 1, 1986; Laws 1995, c. 163, § 1, eff. July 1, 1995; Laws 2000, c. 367, § 92, emerg. eff. June 6, 2000.

§2-8-41.4. Licenses - Application - Fees - Suspension - Violations.

A. 1. Valid licenses are required by all persons whose name appears on the label or invoice as the guarantor manufacturing or distributing of a commercial feed product in this state. The license application must list each manufacturing and distribution facility which is or will be engaged in distributing any feed sold, offered for sale, or distributed by the applicant. No license is required of a person retailing or wholesaling commercial feed labeled and guaranteed by another manufacturer. Any out-of-state person who has no distribution facility within this state shall obtain a license for the entity's principal out-of-state office if the out-of-state person or other entity sells, offers or exposes for sale, or distributes any commercial feed in this state.

2. Application shall be made on a form furnished by the State Board of Agriculture.

3. The Board may establish an annual fee for licensing distributors pursuant to the provisions of the Oklahoma Commercial Feed Law. The Board shall follow the procedures required by the Administrative Procedures Act for promulgation of rules in establishing the licensing fees.

4. Licenses shall be renewed on a date to be determined by the Board. Commercial feed license renewal applications received thirty (30) days or more after the renewal date shall be subject to a late filing fee of Fifty Dollars (\$50.00).

B. Any license may be suspended, canceled, revoked, or refused reissue by the Board after notice and opportunity for a hearing has been given to the holder of the license in accordance with the Administrative Procedures Act. Notice shall be given to the holder of the license by registered or certified mail at least twenty (20) days prior to the date of the hearing. The suspension, cancellation, revocation, refusal to issue, or reissue may be made if the Board finds any violation of the Oklahoma Commercial Feed Law or of rules or standards prescribed by the Board.

C. When the Board has reasonable cause to believe a violation of the law may exist, copies of labels and labeling of commercial feed being distributed may be requested in order to determine compliance with the provisions of the Oklahoma Commercial Feed Law, Section 8-41.1 et seq. of this title.

Added by Laws 1984, c. 15, § 4, eff. July 1, 1985. Amended by Laws 1995, c. 163, § 2, eff. July 1, 1995; Laws 2000, c. 367, § 93, emerg. eff. June 6, 2000; Laws 2004, c. 109, § 5.

§2-8-41.5. Feed labels.

A commercial feed shall be labeled as follows:

1. A commercial feed, except a customer-formula feed, shall be accompanied by a label bearing the following information:

- a. net contents statement (weight or volume),
- b. the product name and the brand name, if any, under which the commercial feed is distributed,
- c. the guaranteed analysis stated in such terms as the State Board of Agriculture by rules determines is required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods such as the methods published by the Association of Official Analytical Chemists International,
- d. the official, common, or usual name of each ingredient used in the manufacture of the commercial feed. The Board by rule may permit the use of a collective term for a group of ingredients which perform a similar function, or they may exempt commercial feeds, or any group, from this requirement of an ingredient statement if they find that the statement is not required in the interest of consumers,
- e. the name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed,
- f. adequate directions for use for all commercial feeds containing drugs and for other feeds as the Board may require for their safe and effective use, and
- g. precautionary statements the Board determines are necessary for the safe and effective use of the commercial feed;

2. Label format shall comply with applicable state and/or federal packaging and labeling regulations; and

3. A customer-formula feed shall be accompanied by a label, invoice, delivery slip, or other shipping document, bearing the following information:

- a. name and address of the manufacturer,
- b. name and address of the purchaser,
- c. date of delivery,
- d. the product name and brand name, if any, the net weight of each commercial feed used in the mixture, and the net weight of each ingredient used,
- e. adequate directions for use for all customer-formula feeds containing drugs and for other feeds the Board may require for their safe and effective use,
- f. the direction for use and precautionary statements as required by the Board, and
- g. if a drug-containing product is used:
 - (1) the purpose of the medication (claim statement), and

- (2) the established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with rules promulgated by the Board.

Added by Laws 1984, c. 15, § 5, eff. July 1, 1985. Amended by Laws 1995, c. 163, § 3, eff. July 1, 1995; Laws 2000, c. 367, § 94, emerg. eff. June 6, 2000.

§2-8-41.6. Misbranding.

A commercial feed shall be misbranded if:

1. Its labeling is false or misleading in any particular;
2. It is distributed under the name of another commercial feed;
3. It is not labeled as required in Section 8-41.5 of this title;
4. It purports to be or is represented as a commercial feed, or if it purports to contain or is represented as containing a commercial feed ingredient, unless the commercial feed or feed ingredient conforms to the definition, if any, prescribed by the State Board of Agriculture; and

5. Any word, statement, or other information required by this subarticle to appear on the label or labeling is not prominently placed with conspicuousness as compared with other words, statements, designs, or devices in the labeling, and in terms likely to be read and understood by the individual purchasing and using the product.

Added by Laws 1984, c. 15, § 6, eff. July 1, 1985. Amended by Laws 2000, c. 367, § 95, emerg. eff. June 6, 2000.

§2-8-41.7. Adulteration.

A commercial feed shall be adulterated if:

1. a. it contains any poisonous or deleterious substance which may render it injurious to health. If the substance is not an added substance, the commercial feed shall not be considered adulterated under this subsection if the quantity of the substance in the commercial feed does not ordinarily render it injurious to health when utilized according to label and/or labeling directions, or
- b. it contains any added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of Section 406 of the Federal Food, Drug, and Cosmetic Act other than one which is:
 - (1) a pesticide chemical in or on a raw agricultural commodity; or
 - (2) a food additive, or
- c. it is, or contains, any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act, or

- d. it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of Section 408(a) of the Federal Food, Drug, and Cosmetic Act. Provided, that where a pesticide chemical has been used in or on a raw agricultural commodity pursuant to an exemption or a tolerance under Section 408 of the Federal Food, Drug, and Cosmetic Act and the raw agricultural commodity has been subjected to processing similar to canning, cooking, freezing, dehydrating, or milling, the residue of the pesticide chemical remaining in or on the processed feed shall not be deemed unsafe if:
 - (1) the residue has been removed to the extent possible in good manufacturing practice, and
 - (2) the concentration of the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of the processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of Section 408(a) of the Federal Food, Drug, and Cosmetic Act, or
- e. it is or contains any color additive which is unsafe within the meaning of Section 706 of the Federal Food, Drug, and Cosmetic Act;

2. Any valuable constituent has been in whole or in part omitted or abstracted or any less valuable substance substituted;

3. Its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling;

4. It contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice rules promulgated by the State Board of Agriculture to assure that the drug meets the requirement of this subarticle as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In promulgating the rules, the Board shall adopt the current good manufacturing practice regulations for medicated feed premixes and for medicated feeds established under authority of the Federal Food, Drug, and Cosmetic Act, unless the Board determines that they are not appropriate to the conditions which exist in this state; or

5. If it contains viable weed seeds in amounts exceeding the limits the Board shall establish.

Added by Laws 1984, c. 15, § 7, eff. July 1, 1985. Amended by Laws 1995, c. 163, § 4, eff. July 1, 1995; Laws 2000, c. 367, § 96, emerg. eff. June 6, 2000.

§2-8-41.8. Prohibited acts.

The following acts are prohibited:

1. The manufacture or distribution of any commercial feed that is adulterated or misbranded;
2. The adulteration or misbranding of any commercial feed;
3. The distribution of agricultural commodities like whole seed, hay, straw, stover, silage, cobs, husks, and hulls, which are adulterated within the meaning of paragraph 1 of Section 8-41.7 of this title;
4. The removal or disposal of a commercial feed in violation of an order under Section 8-41.12 of this title;
5. The failure or refusal to obtain a commercial feed license in accordance with Section 8-41.4 of this title;
6. The violation of subsection C of Section 8-41.13 of this title; and
7. Failure to pay inspection fees and file reports as required by Section 8-41.9 of this title.

Added by Laws 1984, c. 15, § 8, eff. July 1, 1985. Amended by Laws 1995, c. 163, § 5, eff. July 1, 1995; Laws 2000, c. 367, § 97, emerg. eff. June 6, 2000.

§2-8-41.9. Inspection fee - Responsible parties.

A. An inspection fee at the rate of fifteen cents (\$0.15) per ton shall be paid on commercial feeds and/or feed ingredients distributed in this state by the person whose name appears on the label as the manufacturer, guarantor, or distributor, except that a person other than the manufacturer, guarantor, or distributor may assume liability for the inspection fee, subject to the following:

1. No fee shall be paid on a commercial feed if the payment has been made by a previous distributor;
2. The minimum inspection fee shall be Ten Dollars (\$10.00) semi-annually;
3. No fee shall be paid on commercial feeds or feed ingredients used in customer-formula feeds if the inspection fee has been previously paid on those ingredients; and
4. No fee shall be paid on customer-formula feed ingredients that have been furnished by the final purchaser on which a processing fee has been paid.

B. Each person who is liable for the payment of the fee shall:

1. File, not later than the last day of January and July of each year, a semi-annual statement listing the number of net tons of commercial feeds distributed in this state during the preceding semi-annual period; and upon filing the statement shall pay the inspection fee at the rate stated in subsection A of this section. Inspection fees which are due and have not been remitted to the State Board of Agriculture within fifteen (15) days following the date due shall have a penalty fee of ten percent (10%) (Fifty Dollars (\$50.00) minimum) added to the amount due when payment is finally made. The

assessment of this penalty fee shall not prevent the Board from taking other actions as provided in this act; and

2. Keep records required by the Board to indicate accurately the tonnage of commercial feed distributed in this state, and the Board shall have the right to examine these records to verify statements of tonnage. Failure to make an accurate statement of tonnage, failure to pay the inspection fee, or falsifying information or failure to comply shall constitute sufficient cause for the cancellation of the commercial feed license.

C. Fees collected shall be deposited with the State Department of Agriculture Revolving Fund.

D. If the Board finds any deficient inspection fees due, as a result of an audit of the records of any person subject to the provisions of the Oklahoma Commercial Feed Law, the Board shall assess a penalty fee of ten percent (10%) maximum not to exceed Two Thousand Dollars (\$2,000.00) of amount due, or One Hundred Dollars (\$100.00), whichever is greater. The audit penalty shall be added to the deficient inspection fees due and payment made within thirty (30) days.

Added by Laws 1984, c. 15, § 9, eff. July 1, 1985. Amended by Laws 1986, c. 151, § 2, eff. Nov. 1, 1986; Laws 1995, c. 163, § 6, eff. July 1, 1995; Laws 2000, c. 367, § 98, emerg. eff. June 6, 2000.

§2-8-41.10. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-8-41.11. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-8-41.12. "Stop Sale" orders - "Condemnation and Confiscation".

A. "Stop Sale" orders: When the State Board of Agriculture has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this act or rules, it may issue and enforce a written or printed "Stop Sale" order, warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the Board or the court. The Board shall release the lot of commercial feed withdrawn when all requirements have been met. If compliance is not obtained within thirty (30) days, the Board may begin, or upon request of the distributor or licensee shall begin, proceedings for condemnation.

B. "Condemnation and Confiscation": Any lot of commercial feed not in compliance with the law shall be subject to seizure on complaint of the Board to a court in the area in which the commercial feed is located. In the event the court finds the commercial feed to be in violation of this subarticle and orders the condemnation of the commercial feed, it shall be disposed of in any manner consistent

with the quality of the commercial feed and the laws of the state. In no instance shall the disposition of the commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the commercial feed or for permission to process or relabel the commercial feed to bring it into compliance with this subarticle.

Added by Laws 1984, c. 15, § 12, eff. July 1, 1985. Amended by Laws 1995, c. 163, § 8, eff. July 1, 1995; Laws 2000, c. 367, § 99, emerg. eff. June 6, 2000.

§2-8-41.13. Minor violations - Judicial review - Penalties.

A. Nothing in this subarticle shall be construed as requiring the State Board of Agriculture or its representative to:

1. Report for prosecution; or
2. Institute seizure proceedings; or
3. Issue a "Stop Sale" order, as a result of minor violations of this subarticle, or when the public interest will best be served by a suitable notice of violation or written warning.

B. Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this subarticle may within forty-five (45) days bring action in the Oklahoma County District Court for judicial review.

C. Any person who uses any information acquired concerning any method, records, formulations, or processes which is entitled to protection as a trade secret for personal advantage, or reveals that information to other than the Board, or the courts when relevant in any judicial proceeding, is guilty of a misdemeanor. This prohibition shall not prohibit the Board from exchanging information of a regulatory nature with duly appointed officials of the United States government, or of other states, who are similarly prohibited by law from revealing this information.

Added by Laws 1984, c. 15, § 13, eff. July 1, 1985. Amended by Laws 2000, c. 367, § 100, emerg. eff. June 6, 2000.

§2-8-41.14. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-8-41.15. Publication of commercial feed information.

The State Board of Agriculture may publish information concerning the sales of commercial feeds, together with the data on their production and use as it may consider advisable, and a report of the results of the analyses of official samples of commercial feeds sold within the state as compared with the analyses guaranteed on the label. The information concerning production and use of commercial feed shall not disclose the operations of any person.

Added by Laws 1984, c. 15, § 15, eff. July 1, 1985. Amended by Laws 1995, c. 163, § 9, eff. July 1, 1995; Laws 2000, c. 367, § 101, emerg. eff. June 6, 2000.

§2-8-41.16. Environmental jurisdiction.

A. The Department of Environmental Quality shall have environmental jurisdiction over:

1. Commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mill and other agricultural products;

2. Slaughterhouses, but not including feedlots at these facilities; and

3. Aquaculture and fish hatcheries, including, but not limited to, discharges of pollutants and storm water to waters of the state, surface impoundments and land application of wastes and sludge, and other pollution originating at these facilities.

B. Facilities which store grain, feed, seed, fertilizer, and agricultural chemicals that are required by federal National Pollutant Discharge Elimination System (NPDES) regulations to obtain a permit for storm water discharges shall only be subject to the jurisdiction of the Department of Environmental Quality with respect to such storm water discharges.

Added by Laws 1993, c. 145, § 249, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 45, eff. July 1, 1993; Laws 1994, c. 140, § 27, eff. Sept. 1, 1994; Laws 1999, c. 413, § 12, eff. Nov. 1, 1999; Laws 2000, c. 367, § 102, emerg. eff. June 6, 2000; Laws 2006, c. 201, § 3, eff. Nov. 1, 2006.

§2-8-61. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-8-61.a. Manipulated manures - Exemption from registration and inspection requirements - Violations - Penalties.

A. Any person operating a business that is engaged in the distribution, use, or sale of manipulated manures shall not be subject to the provisions of Sections 8-62 and 8-64 of Title 2 of the Oklahoma Statutes for the sale, use or distribution of such manipulated manures if:

1. the manipulated manures offered for sale, sold, or distributed in this state in bulk do not reflect by label or otherwise any warranties or guarantees of the contents of such manures other than the animal sources of the manures; and

2. the person engaged in the selling, use, or sale of manipulated manures does not in any manner make or offer any warranties or guarantees of the manipulated manures other than the

animal sources of the manures. The provisions of this paragraph shall not prohibit a person engaged in the selling, use, or sale of manipulated manures from providing the consumer information regarding analysis of manipulated manures.

B. Any person violating the provisions of this section, in addition to any other penalties authorized by the fertilizer laws of this state, shall be subject to a revocation of the exemption offered by the provisions of this section.

Added by Laws 1991, c. 99, § 2, emerg. eff. April 25, 1991.

§2-8-61a. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-8-62. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-8-63. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-8-64. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-8-65. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-8-66. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-8-67. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-8-68a. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-8-69. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-8-70. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-8-71. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-8-72. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-8-73. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-8-74. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-8-77.1. Short title - Purpose.

A. Sections 8-77.1 through 8-77.18 of this subarticle shall be known and may be cited as the "Oklahoma Fertilizer Act".

B. The purpose of the Oklahoma Fertilizer Act is to provide assurances to the consumer that fertilizer products are properly identified, and that the quality represented by the manufacturer is accurate as well as for regulation of the storage, use, and application of fertilizer to protect the consumer and the environment.

C. The Legislature hereby occupies and preempts the entire field of legislation in this state touching in any way the regulation and enforcement of the registration, labeling, sale, storage, transportation, distribution, notification of use, and agricultural use of fertilizer to the complete exclusion of any order, ordinance or regulation by any municipality or other political subdivision of this state.

D. No political subdivision shall regulate the registration, packaging, labeling, sale, storage, distribution, agricultural use or application of fertilizer. No political subdivision shall adopt or continue in effect local orders, ordinances, or regulations in this field, except for those relating to nonagricultural use or application or taxation relating to registration, packaging, labeling, sale, storage, distribution, use or application of fertilizers. Local legislation in violation of this section is void and unenforceable.

Added by Laws 2000, c. 367, § 103, emerg. eff. June 6, 2000. Amended by Laws 2002, c. 383, § 3, eff. July 1, 2002; Laws 2005, c. 177, § 1, eff. July 1, 2005.

§2-8-77.2. Official agency.

The Oklahoma Fertilizer Act shall be administered by the State Board of Agriculture.

Added by Laws 2000, c. 367, § 104, emerg. eff. June 6, 2000.

§2-8-77.3. Definitions.

As used in the Oklahoma Fertilizer Act:

1. "Brand" means a term, design, or trademark used in connection with one or several grades of fertilizer;

2. "Broker" means a person who negotiates sales and purchases between a manufacturer, distributor, final consumer, or retailer of fertilizer;

3. "Bulk fertilizer" means fertilizer distributed in a nonpackaged form;
4. "Commercial fertilizer" means fertilizer sold in bulk quantities or packages greater than thirty (30) pounds;
5. "Custom blend" means fertilizer formulated according to specifications furnished by the final consumer;
6. "Custom blender" means a person who mixes or commingles fertilizer into a custom blend and who distributes the special blend. A custom blender shall not be required to register each grade of fertilizer in the following circumstances:
- a. the custom blend is formulated according to specifications furnished by the ultimate consumer prior to mixing, and
 - b. the custom blend is prepared by a lawn care or tree service company that mixes or commingles fertilizer and who applies the special blend for the ultimate consumer;
7. "Deficiency" means the amount of nutrient found by analysis less than that guaranteed, which may result from a lack of nutrient ingredients or from lack of uniformity;
8. "Distribute" means to import, consign, manufacture, blend, offer for sale, sell, barter, commercially apply, or supply fertilizer in this state including, but not limited to, the delivery of bagged, labeled and registered fertilizer to a nonregistrant that sells the fertilizer in this state;
9. "Distributor" means any person who distributes fertilizer;
10. "Fertilizer" means any substance containing one or more recognized plant nutrients which are used for its plant nutrient content and is designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, and wood ashes;
11. "Fertilizer dealer" means any person operating a business that is engaged in the distribution or sale of fertilizer. The term "fertilizer dealer" shall not include an ultimate consumer who is engaged in the physical act of application of fertilizer or a retail store selling only bagged registered commercial fertilizer other than bagged ammonium nitrate;
12. "Grade" means the percentage of total nitrogen, available phosphate, and soluble potash stated in whole numbers. Specialty fertilizer may be guaranteed in fractional units of less than one percent (1%) of total nitrogen, available phosphate, and soluble potash. Fertilizer materials, bone meal, manures, and similar materials may be guaranteed in fractional units;
13. "Guaranteed analysis" means the minimum percentage of plant nutrients claimed in the following order and form:
- | | | |
|----------------------------|-------|---|
| Total Nitrogen (N) | _____ | % |
| Available Phosphate (P2O5) | _____ | % |

Soluble Potash (K₂O) _____%.

When any plant nutrients, substances, or compounds are guaranteed, they shall be subject to inspection and analysis;

14. "Guarantor" means the person responsible to the State Board of Agriculture for any claims or guarantees associated with the manufacture, distribution, and use of a fertilizer;

15. "Investigational allowance" means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of fertilizer;

16. "Label" means the display of all written, printed, or graphic matter, upon the immediate container, or a statement accompanying fertilizer;

17. "Labeling" means all written, printed, or graphic matter, upon or accompanying any fertilizer, or advertisements, brochures, posters, or television and radio announcements used in promoting the sale of fertilizer;

18. "Licensee" means the person receiving a license to distribute fertilizer under the provisions of the Oklahoma Fertilizer Act;

19. "Manipulated manures" means substances composed primarily of animal excreta, plant remains, or mixtures of these substances which have been processed by natural or mechanical drying or composting and no other chemicals have been added;

20. "Mixed fertilizer" means a fertilizer containing any combination or mixture of fertilizer materials;

21. "Official sample" means any sample of fertilizer taken by an authorized agent of the Board;

22. "Percent" or "percentage" means the portion of each hundred units of weight;

23. "Primary nutrient" means total nitrogen, available phosphate, and soluble potash;

24. "Registrant" means the person registering fertilizer under the provisions of the Oklahoma Fertilizer Act;

25. "Specialty fertilizer" means fertilizer sold in packages of less than thirty (30) pounds;

26. "Ton" means a net weight of two thousand (2,000) pounds avoirdupois;

27. "Ultimate consumer" means a person who receives fertilizer for personal use. The term "ultimate consumer" shall not include a person distributing fertilizer for profit to the general public; and

28. "Unmanipulated manures" means substances composed primarily of excreta, plant remains, or mixtures of these substances which have not been processed in any manner.

Added by Laws 2000, c. 367, § 105, emerg. eff. June 6, 2000. Amended by Laws 2002, c. 383, § 4, eff. July 1, 2002; Laws 2003, c. 165, § 1, emerg. eff. May 5, 2003; Laws 2003, c. 242, § 7, emerg. eff. May 23, 2003; Laws 2005, c. 177, § 2, eff. July 1, 2005.

§2-8-77.4. Manipulated manures - Exemptions.

Any person operating a business engaged in the distribution or sale of manipulated manures shall not be subject to provisions of Sections 8-77.5 through 8-77.7 of this title if manipulated manures offered for sale, sold, or distributed do not reflect by label any warranties or guarantees of the contents of the manures other than the animal sources of the manures.

Added by Laws 2000, c. 367, § 106, emerg. eff. June 6, 2000.

§2-8-77.5. Registration - Licensing - Fees - Penalties.

A. The annual license fee for persons operating a business engaged in the distribution or sale of fertilizer shall be Fifty Dollars (\$50.00) and expire on a date to be determined by the State Board of Agriculture.

B. All fertilizer dealers shall obtain a license from the Board for each business location.

C. An application for license shall include:

1. The name and address of licensee; and

2. The name and address of each business location in the state.

The licensee shall inform the Board in writing of additional business locations established during the period of the license.

D. No person, whose name appears on the label, shall distribute in this state fertilizer until it is registered with the Board by such person. An application for each brand and product name of each grade of fertilizer shall be made on a form furnished by the Board. Upon the approval of an application by the Board, a copy of the registration shall be furnished to the applicant. A distributor shall not be required to register any fertilizer which is already registered under the Oklahoma Fertilizer Act by another person, provided the label does not differ in any respect.

E. Registrations for commercial fertilizer products sold in bulk quantities or packages of greater than thirty (30) pounds shall be permanent unless cancelled by the registrant or the Board.

F. 1. Registrations for specialty fertilizer products sold in packages of less than thirty (30) pounds shall pay a one-hundred-dollar registration fee for each product.

2. Specialty fertilizer product registrations shall expire on June 30 of each year.

3. If the Board finds any specialty fertilizer products that have not been registered, a penalty of One Hundred Dollars (\$100.00) per product will be assessed. The penalty shall be added to the registration fee and payment shall be made within thirty (30) days after receipt of notice.

G. A custom blender shall not be required to register each grade of fertilizer formulated according to specifications which are furnished by the final consumer prior to mixing, but shall be

required to be licensed and shall be the guarantor of that custom blend.

H. An application for registration shall include the following:

1. The brand and grade;
2. The guaranteed analysis;
3. Name and address of the registrant;
4. Net weight for packaged fertilizer; and
5. Oklahoma fertilizer license number.

Added by Laws 2000, c. 367, § 107, emerg. eff. June 6, 2000. Amended by Laws 2002, c. 383, § 5, July 1, 2002; Laws 2005, c. 177, § 3, eff. July 1, 2005.

§2-8-77.6. Labels.

A. Containers of fertilizer distributed in this state shall have placed on or affixed to the container a label setting forth in clearly legible and conspicuous form the following information:

1. Net weight;
2. Brand and grade;
3. Guaranteed analysis; and
4. Name and address of the registrant/licensee.

B. In case of bulk shipments, this information in written or printed form shall accompany delivery.

C. A fertilizer formulated according to specifications which are furnished by and for the final consumer prior to mixing shall be labeled to show the net weight, the guaranteed analysis, and the name and address of the distributor, registrant, or licensee.

Added by Laws 2000, c. 367, § 108, emerg. eff. June 6, 2000.

§2-8-77.7. Inspection fee - Tonnage report.

A. Each registrant distributing fertilizer in this state shall file with the State Board of Agriculture, not later than the last day of January and July of each year, a semiannual inspection fee report setting forth the number of tons sold or distributed during the period and pay an inspection fee of One Dollar (\$1.00) per ton of which fifty cents (\$0.50) per ton shall be forwarded directly to a special Soil Fertility Research Account in the Department of Plant and Soil Sciences of the Division of Agricultural Sciences and Natural Resources at Oklahoma State University for the purpose of conducting soil fertility research and extension involving efficient fertilizer use for agronomic crops and forages and groundwater and surface water protection from plant food nutrients. Oklahoma State University shall present an annual report to the Agriculture Committees of the Legislature on the use of the special Soil Fertility Research Account Fund.

B. Each registrant distributing commercial fertilizer in this state shall file with the State Board of Agriculture not later than

the last day of January and July of each year, a semiannual tonnage report stating:

1. The number of net tons of fertilizer distributed during the preceding six (6) calendar months;

2. The amount in tons of each grade of fertilizer distributed during the preceding six (6) calendar months; and

3. Whether the fertilizer was distributed in bag, bulk, or liquid.

C. If no fertilizer was sold or distributed in this state for the semiannual period, the registrant shall submit a statement reflecting that information and shall remit a minimum fee of Ten Dollars (\$10.00). If the inspection fee and tonnage report are not filed and the payment of the inspection fee is not made within thirty (30) days after the end of the specified filing period, a collection fee of ten percent (10%) of the inspection fee due or a minimum of Ten Dollars (\$10.00) shall be assessed and added to the amount due.

D. Sales or exchanges between importers, manufacturers, distributors, registrants, or licensees are exempt.

E. When more than one person is involved in the distribution of a fertilizer, the last person who has the fertilizer registered and who distributed the fertilizer to a nonregistrant dealer or consumer is responsible for reporting the tonnage and paying the inspection fee, unless the report and payment is made by a prior distributor or manufacturer of the fertilizer.

F. If the Board finds any deficient inspection fees due as a result of an audit of the records of any person subject to the provisions of the Oklahoma Fertilizer Act, the Board shall assess a penalty fee of ten percent (10%) of the amount due, with a maximum not to exceed Two Thousand Dollars (\$2,000.00) or a minimum of One Hundred Dollars (\$100.00) whichever is greater. The audit penalty shall be added to the deficient inspection fees due and payment shall be made within thirty (30) days of notice of the deficiency.

G. No information furnished to the Board under this section shall be disclosed in a way which divulges proprietary information about the operation of any person.

H. Each registrant, distributor, or manufacturer shall keep accurate records of the tonnage of fertilizer distributed in this state.

Added by Laws 2000, c. 367, § 109, emerg. eff. June 6, 2000. Amended by Laws 2002, c. 383, § 6, eff. July 1, 2002; Laws 2009, c. 314, § 1, eff. Nov. 1, 2009; Laws 2016, c. 228, § 2, eff. Nov. 1, 2016.

§2-8-77.8. Repealed by Laws 2002, c. 383, § 9, eff. July 1, 2002.

§2-8-77.9. Sampling - Analysis.

A. The methods of sampling and analysis shall be those adopted by the Association of Official Analytical Chemists. In cases not

covered by these methods, or in cases where methods are available in which improved applicability has been demonstrated, the State Board of Agriculture may adopt appropriate methods from other sources.

B. The Board, in determining for administrative purposes, whether any fertilizer is deficient in plant food, shall be guided solely by the official sample as defined in Section 8-77.3 of Title 2 of the Oklahoma Statutes and obtained and analyzed as provided for in subsection A of this section.

C. Official samples establishing a penalty for nutrient deficiency shall be retained for a minimum of ninety (90) days from issuance of a deficiency report.

Added by Laws 2000, c. 367, § 111, emerg. eff. June 6, 2000.

§2-8-77.10. Plant nutrient deficiency - Payments.

A. A payment of two (2) times the value of the deficiency or deficiencies shall be assessed:

1. If the analysis shows that a fertilizer is deficient in one of its guaranteed primary plant nutrients beyond the investigational allowances and compensations as established by rules; or

2. If the overall commercial value of the fertilizer is below the level established by rule, a penalty payment of two (2) times the value of the deficiency or deficiencies shall be assessed.

B. When a fertilizer is subject to a penalty payment under subsection A of this section, the larger penalty payment shall apply.

C. All penalty payments assessed under this subsection A of this section shall be paid by the registrant or licensee to the consumer of the lot of fertilizer represented by the sample analyzed within thirty (30) days after the date of notice. Copies of consumer refund receipts shall be forwarded to the State Board of Agriculture. If a consumer cannot be found, the penalty shall be paid and deposited in the State Department of Agriculture Revolving Fund.

D. A deficiency in an official sample of mixed fertilizer resulting from non-uniformity is not distinguishable from a deficiency due to actual plant nutrient shortage and is properly subject to official action.

Added by Laws 2000, c. 367, § 112, emerg. eff. June 6, 2000.

§2-8-77.11. Commercial value.

For the purpose of determining the commercial value to be applied under the provisions of Section 8-77.10 of Title 2 of the Oklahoma Statutes, the State Board of Agriculture or its agent shall determine the values per unit of nitrogen, available phosphate, and soluble potash in fertilizers in this state. The value determined shall be used in assessing penalty payments.

Added by Laws 2000, c. 367, § 113, emerg. eff. June 6, 2000.

§2-8-77.12. Misbranding.

No person shall distribute misbranded fertilizer. A fertilizer shall be misbranded if:

1. Its labeling is false or misleading;
2. It is distributed under the name of another fertilizer product; or
3. It is not labeled as required in Section 8-77.5 of Title 2 of the Oklahoma Statutes and rules promulgated by the State Board of Agriculture.

Added by Laws 2000, c. 367, § 114, emerg. eff. June 6, 2000.

§2-8-77.13. Adulteration.

No person shall distribute an adulterated fertilizer product. A fertilizer shall be adulterated if:

1. It contains any deleterious or harmful substance in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil, or water when applied in accordance with directions for use on the label;
2. If adequate warning statements or directions for use which may be necessary to protect plant life, animals, humans, aquatic life, soil, or water are not shown upon the label;
3. Its composition falls below or differs from that which it is purported to possess by its labeling; or
4. It contains unwanted crop seed or weed seed.

Added by Laws 2000, c. 367, § 115, emerg. eff. June 6, 2000.

§2-8-77.14. Publication of information.

The State Board of Agriculture shall have authority to publish information concerning the distribution of fertilizer and results of analyses based on official samples of fertilizer distributed within the state.

Added by Laws 2000, c. 367, § 116, emerg. eff. June 6, 2000.

§2-8-77.15. Storage, use and application - Environmental jurisdiction.

A. No person owning or operating a fertilizer storage facility or a commercial fertilizer facility shall discharge or release or place or cause to be placed any fertilizer material in a location where it is likely to cause contamination of any surface water or groundwater of this state. The provisions of this subsection shall not prohibit or restrict the land application of fertilizer for agriculture purposes or plant growth.

B. Preventive measures designed to minimize the possibility of fertilizer substances being introduced into waters of the state shall be subject to State Board of Agriculture jurisdiction including regulatory response.

C. 1. The Department of Environmental Quality shall have environmental jurisdiction over:

- a. commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mill and other agricultural products,
- b. slaughterhouses, but not including feedlots at these facilities, and
- c. aquaculture and fish hatcheries,

including, but not limited to, discharges of pollutants and storm water to waters of the state, surface impoundments and land application of wastes and sludge, and other pollution originating at these facilities.

2. Facilities which store grain, feed, seed, fertilizer, and agricultural chemicals that are required by federal National Pollutant Discharge Elimination System (NPDES) regulations to obtain a permit for storm water discharges shall only be subject to the jurisdiction of the Department of Environmental Quality with respect to such storm water discharges.

D. Bulk fertilizers shall be stored in a manner that minimizes the release of fertilizers and protects the environment. Fertilizer use and application may be established in rules to protect the environment.

Added by Laws 2000, c. 367, § 117, emerg. eff. June 6, 2000. Amended by Laws 2006, c. 201, § 4, eff. Nov. 1, 2006.

§2-8-77.16. Seizure - Condemnation - Disposal.

Any lot of fertilizer not in compliance with the provisions of the Oklahoma Fertilizer Act shall be subject to seizure on petition of the State Board of Agriculture to a court in the area the fertilizer is located. In the event the court finds the fertilizer to be in violation of the Oklahoma Fertilizer Act and orders the condemnation of the fertilizer, it shall be disposed of in a manner consistent with the quality of the fertilizer and the laws of the state.

Added by Laws 2000, c. 367, § 118, emerg. eff. June 6, 2000.

§2-8-77.17. Minor violations.

Nothing in the Oklahoma Fertilizer Act shall be construed as requiring the State Board of Agriculture to initiate prosecution or apply for an administrative seizure warrant for minor violations of the law when the Board believes that the public interests will be best served by a written notice of violation or warning.

Added by Laws 2000, c. 367, § 119, emerg. eff. June 6, 2000.

§2-8-77.18. Exchanges.

Nothing in the Oklahoma Fertilizer Act shall be construed to restrict or avoid sales or exchanges of fertilizer to each other by importers, manufacturers, or manipulators who mix fertilizer

materials for sale, or as preventing the free and unrestricted shipments of fertilizer to manufacturers or manipulators who have registered and licensed their brands as required by law.

Added by Laws 2000, c. 367, § 120, emerg. eff. June 6, 2000.

§2-8-80.1. Short title.

This subarticle shall be known and may be cited as the "Oklahoma Agricultural Liming Materials Act".

Added by Laws 1973, c. 61, § 1, operative July 1, 1973. Amended by Laws 2001, c. 146, § 50, emerg. eff. April 30, 2001. Renumbered from § 1451 of this title by Laws 2001, c. 146, § 252, emerg. eff. April 30, 2001.

§2-8-80.2. Definitions.

When used in the Oklahoma Agricultural Liming Materials Act:

1. "Agricultural liming material" means a product whose calcium and magnesium compounds are capable of neutralizing soil acidity;
2. "Brand" means the term, designation, trademark, product name, or other specific designation under which an individual agricultural liming material is offered for sale;
3. "Bulk" means liquid or solid liming material in a nonpackaged form;
4. "Burnt lime" means a calcined material comprised chiefly of calcium oxide in natural association with lesser amounts of magnesium and is capable of slaking with water;
5. "Calcium Carbonate Equivalent" (CCE) means the acid neutralizing capacity of an agricultural liming material expressed as weight percentage of calcium carbonate;
6. "Effective Calcium Carbonate Equivalent" (ECCE) is the percent of calcium carbonate equivalent (CCE) multiplied by the "fineness factor";
7. "Fineness" means the percentage by weight of the material passing U.S. standard sieves of specified sizes. The State Board of Agriculture shall promulgate rules relating to fineness and shall be guided by the American Society for Testing Materials specification for sieve sizes;
8. "Fineness factor" is the degree of fineness of the liming material used and shall be determined as prescribed by rules;
9. "Guarantor" means a person responsible to the Board for any claims or guarantees associated with the manufacture, distribution, and use of agricultural liming materials;
10. "Hydrated lime" means a dry material made from burnt lime;
11. "Industrial coproducts" means any industrial waste or by-product containing calcium or calcium and magnesium in forms that will neutralize soil acidity and it may be designated by prefixing the name of the industry or process used for its production;

12. "Label" means any written or printed matter on or attached to the package or on the delivery ticket or invoice which accompanies bulk shipments;

13. "Limestone" means a material consisting essentially of calcium carbonate or a combination of calcium carbonate with magnesium carbonate capable of neutralizing soil acidity;

14. "Marl" means a granular or loosely consolidated earthy material composed largely of sea shell fragments and calcium carbonate;

15. "Percent" or "percentage" means by weight; and

16. "Registrant" means the person registering agricultural liming materials pursuant to the provisions of the Oklahoma Agricultural Liming Materials Act.

Added by Laws 1973, c. 61, § 2, operative July 1, 1973. Amended by Laws 1991, c. 89, § 1, eff. Sept. 1, 1991; Laws 2001, c. 146, § 51, emerg. eff. April 30, 2001. Renumbered from § 1452 of this title by Laws 2001, c. 146, § 252, emerg. eff. April 30, 2001.

§2-8-80.3. Distribution, labeling and sale of liming materials - Regulations.

A. Agricultural liming materials sold, offered, or exposed for sale in the state shall have affixed in a conspicuous manner on the outside of each package a plainly printed, stamped or marked label, tag, or statement, or in the case of bulk sales, a delivery slip or invoice, setting forth the following information:

1. The name and principal office address of the manufacturer or distributor;

2. The brand or trade name of the material;

3. The identification of the product as to the type of the agricultural liming material;

4. The net weight of the agricultural liming material; and

5. The minimum percentage of Effective Calcium Carbonate Equivalent (ECCE) guaranteed.

B. No information or statement shall appear on any package, label, delivery slip, or advertising that is false or misleading to the purchaser as to the quality, analysis, type, or composition of the agricultural liming material.

C. In the case of any adulterated material subsequent to packaging, labeling, or loading and before delivery to the consumer, a plainly marked notice shall be affixed by the vendor to the package or delivery slip to identify the kind and degree of adulteration.

D. At every site from which agricultural liming materials are delivered in bulk and at every place where consumer orders for bulk deliveries are placed, there shall be conspicuously posted a copy of the statement required by this section for each brand of material.

E. Each separately identified product or each effective calcium carbonate equivalent shall be registered before being distributed in

this state. The application for registration shall be submitted to the Board on forms furnished. Upon approval, a copy of the registration shall be furnished to the applicant. The registration shall contain the labeling information required in subsection A of this section. Registrations shall be permanent unless canceled by the registrant or by the Board.

F. A distributor shall not be required to register any brand of agricultural liming material that is already registered pursuant to the Oklahoma Agricultural Liming Materials Act by another person, providing the label does not differ in any respect.

Added by Laws 1973, c. 61, § 3, operative July 1, 1973. Amended by Laws 1991, c. 89, § 2, eff. Sept. 1, 1991; Laws 2001, c. 146, § 52, emerg. eff. April 30, 2001. Renumbered from § 1453 of this title by Laws 2001, c. 146, § 252, emerg. eff. April 30, 2001.

§2-8-80.4. Information required by § 8-80.3 of this title to be affixed to containers.

A. Any agricultural liming material offered for sale, sold, or distributed in this state in bags, barrels, or other containers shall have placed on or affixed to the container in written or printed form the information required by subsection A of Section 8-80.3 of this title, either:

1. On tags affixed to the end of the package between the ears or on the sewn end or both between the ears and on the sewn end; or
2. Directly on the package in a manner as determined by the Board.

B. If distributed in bulk, a written or printed statement of the weight, as well as the information required by paragraphs 1, 2, 3 and 5 of subsection A of Section 8-80.3 of this title, shall accompany delivery and be supplied to the purchaser.

Added by Laws 1991, c. 89, § 3, eff. Sept. 1, 1991. Amended by Laws 2001, c. 146, § 53, emerg. eff. April 30, 2001. Renumbered from § 1453.1 of this title by Laws 2001, c. 146, § 252, emerg. eff. April 30, 2001.

§2-8-80.5. Compliance with act - Toxic materials prohibited - Administrative penalty.

A. No agricultural liming material shall be sold or offered for sale in this state unless it complies with provisions of the Oklahoma Agricultural Liming Materials Act or rules promulgated thereto.

B. No agricultural liming material shall be sold or offered for sale in this state that contains toxic materials in quantities injurious to plants or animals.

C. If an analysis shows that a commercial agricultural liming material falls below the guaranteed analysis, the State Board of Agriculture may require the payment of an administrative penalty to the consumer in the amount of the current value of the deficiency.

All administrative penalties assessed pursuant to this section shall be paid to the consumer represented by the sample analyzed within thirty (30) days after the date of notice from the Board to the guarantor, with receipts taken and promptly forwarded to the Board. If the consumers cannot be found, the amount of the penalty shall be forwarded to the Board and be deposited in the State Department of Agriculture Revolving Fund.

Added by Laws 1973, c. 61, § 4, operative July 1, 1973. Amended by Laws 1991, c. 89, § 4, eff. Sept. 1, 1991; Laws 2001, c. 146, § 54, emerg. eff. April 30, 2001. Renumbered from § 1454 of this title by Laws 2001, c. 146, § 252, emerg. eff. April 30, 2001.

§2-8-80.6. Vendor's license for spreading - Application - Fee.

A. It shall be unlawful for any person to engage in the spreading of liming materials on properties belonging to others unless the person has a current vendor's license issued by the State Board of Agriculture.

B. Application for a license shall be in the form prescribed by the Board and shall state the name and address of the applicant and the number of spreader trucks or similar vehicles to be used by the applicant. The application shall be accompanied by an annual license fee of Twenty-five Dollars (\$25.00). Each license shall expire December 31 of each year.

Added by Laws 1973, c. 61, § 5, operative July 1, 1973. Amended by Laws 1991, c. 89, § 5, eff. Sept. 1, 1991; Laws 2001, c. 146, § 55, emerg. eff. April 30, 2001. Renumbered from § 1455 of this title by Laws 2001, c. 146, § 252, emerg. eff. April 30, 2001.

§2-8-80.7. Inspection fees - Reports.

A. For the purpose of helping to defray the expenses of inspection, administering, and carrying out the provisions of the Oklahoma Agricultural Liming Materials Act, an inspection fee of ten cents (\$0.10) per ton shall be paid to the State Board of Agriculture on all agricultural liming material sold or distributed for use within this state.

B. All agricultural liming material fees collected shall be deposited in the State Department of Agriculture Revolving Fund.

C. Manufacturers, importers, and other guarantors distributing agricultural liming materials in the state shall file with the Board not later than the last day of January and July of each year, a semiannual report on forms furnished by the Board setting forth the number of net tons of agricultural liming material distributed in this state during the preceding six (6) calendar months. This report shall be accompanied by payment of the inspection fee. 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). The Board

shall have authority to audit records of each person to determine the accuracy of these reports.

D. Any agricultural liming material on which the inspection fee has not been paid shall be subject to a stop-sale, removal order, or seizure.

E. The Board may publish and distribute semiannually or annually to each person, distributor, registrant, licensee, and other interested persons a report showing the tons of agricultural liming material sold in Oklahoma. This report shall in no way divulge the operation of any registrant, distributor, or licensee.

Added by Laws 1973, c. 61, § 6, operative July 1, 1973. Amended by Laws 1991, c. 89, § 6, eff. Sept. 1, 1991; Laws 2001, c. 146, § 56, emerg. eff. April 30, 2001. Renumbered from § 1456 of this title by Laws 2001, c. 146, § 252, emerg. eff. April 30, 2001. Amended by Laws 2002, c. 383, § 7, eff. July 1, 2002.

§2-8-80.8. Analysis and sampling.

A. The State Board of Agriculture is authorized to sample, inspect, make analyses of and test agricultural liming materials distributed within this state as necessary to determine whether the agricultural liming materials are in compliance with the provisions of the Oklahoma Agricultural Liming Materials Act. The Board through its authorized agent is authorized to enter upon any public or private premises or carriers during regular business hours in order to have access to agricultural liming material subject to the provisions of the Oklahoma Agricultural Liming Materials Act and rules pertaining thereto, and to the records relating to their distribution.

B. The methods of analysis and sampling shall be those approved by the Board as established by the Association of Official Analytical Chemists.

C. The Board may annually publish the results of official analysis of agricultural liming materials.

Added by Laws 1973, c. 61, § 7, operative July 1, 1973. Amended by Laws 1991, c. 89, § 7, eff. Sept. 1, 1991; Laws 2001, c. 146, § 57, emerg. eff. April 30, 2001. Renumbered from § 1457 of this title by Laws 2001, c. 146, § 252, emerg. eff. April 30, 2001.

§2-8-80.9. Stop-sale orders.

A. The State Board of Agriculture may issue and enforce a written or printed "stop-sale order" to the owner or custodian of any agricultural liming materials, to hold the materials at a designated place when it finds agricultural liming materials are being offered or exposed for sale in violation of any of the provisions of the Oklahoma Agricultural Liming Materials Act or rules until:

1. The owner or custodian is in compliance with the Oklahoma Agricultural Liming Materials Act; and

2. The agricultural liming materials are released in writing by the Board or its authorized agent; or

3. The violation has been legally disposed of by written authority.

B. The Board or its authorized agent shall release the agricultural liming materials when the requirements of the provisions of the Oklahoma Agricultural Liming Materials Act have been complied with and all costs and expenses incurred in connection with the stop-sale order have been paid.

Added by Laws 1973, c. 61, § 8, operative July 1, 1973. Amended by Laws 1991, c. 89, § 8, eff. Sept. 1, 1991; Laws 2001, c. 146, § 58, emerg. eff. April 30, 2001. Renumbered from § 1458 of this title by Laws 2001, c. 146, § 252, emerg. eff. April 30, 2001.

§2-8-85.1. Short title.

This subarticle shall be known and may be cited as the Soil Amendment Act.

Added by Laws 1975, c. 181, § 1, emerg. eff. May 22, 1975. Amended by Laws 2001, c. 146, § 80, emerg. eff. April 30, 2001. Renumbered from § 1701 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001.

§2-8-85.2. Power vested in Board.

The Soil Amendment Act shall be administered by the State Board of Agriculture.

Added by Laws 1975, c. 181, § 2, emerg. eff. May 22, 1975. Amended by Laws 2001, c. 146, § 81, emerg. eff. April 30, 2001. Renumbered from § 1702 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001.

§2-8-85.3. Definitions.

As used in the Soil Amendment Act:

1. "Active ingredient" or "soil amending ingredient" means:
 - a. the ingredient or ingredients that affect the physical, chemical, or other characteristics of the soil and improve soil condition, or
 - b. any natural or synthetic substance when applied to plants or seeds that is intended to improve crop production, germination, growth, yield, product quality, reproduction, flavor or other desirable characteristics of plants;
2. "Adulterated" means and shall apply to any soil amendment if:
 - a. it contains any deleterious or harmful agent in sufficient amount to render it injurious to beneficial plants, animals, or aquatic life when applied in accordance with the directions for use shown on the label; or if adequate warning statements and directions

- for use, necessary to protect plants, animals, or aquatic life are not shown on the label,
- b. its composition falls below purported labeling requirements, or
- c. it contains noxious weed seed;
- 3. "Bulk" means in nonpackaged form;
- 4. "Distribute" means to import, consign, manufacture, blend, offer for sale, sell, barter, or to supply soil amendments to any person in this state;
- 5. "Distributor" means any person who imports, consigns, manufactures, blends, sells, offers for sale, barterers or supplies soil amendments in this state;
- 6. "Inert ingredient" or "other ingredient" means the ingredients with no beneficial effect that are present in the product;
- 7. "Label" means the display of written, printed, or graphic matter upon the immediate container of a soil amendment;
- 8. "Labeling" means all written, printed, or graphic matter upon or accompanying any soil amendment, and all advertisements, brochures, posters, television, or radio announcements used in promoting the sale of a soil amendment;
- 9. "Manufacturer" means any person who produces, compounds, mixes, or blends soil amendments;
- 10. "Misbranded" means and shall apply if:
 - a. any soil amendment bears a label that is false or misleading in any particular,
 - b. any soil amendment is distributed under the name of another soil amendment,
 - c. any material is represented as a soil amendment or is represented as containing a soil amendment, unless the soil amendment conforms to the definition of identity, if any, prescribed by rules,
 - d. the active ingredient in any soil amendment is not shown in the approved ingredient form, or
 - e. the labeling on any soil amendment is false or misleading in any particular;
- 11. "Name" means the specific designation under which the individual product is offered for sale;
- 12. "Percent" or "percentage" means the portion of each one hundred (100) units of weight;
- 13. "Registrant" means any person who registers a soil amendment under the provisions of the Soil Amendment Act; and
- 14. "Soil amendment" means any substance which is intended to improve the physical, chemical, or other characteristics of the soil, horticultural growing media, or any natural or synthetic substance applied to plants or seeds that is intended to improve crop production, germination, growth, yield, product quality,

reproduction, flavor or other desirable characteristics of plants except the following: commercial fertilizers, agricultural liming materials, agricultural gypsum, unmanipulated animal manures, unmanipulated vegetable manures, and pesticides; provided that commercial fertilizer shall be included if it is represented to contain, as an active ingredient, a substance other than a recognized plant food element or is represented as promoting plant growth by other than supplying a recognized plant food element.

Added by Laws 1975, c. 181, § 3, emerg. eff. May 22, 1975. Amended by Laws 2001, c. 146, § 82, emerg. eff. April 30, 2001. Renumbered from § 1703 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001. Amended by Laws 2005, c. 415, § 1, eff. Nov. 1, 2005.

§2-8-85.4. Labeling.

A. Each container of a soil amendment shall be labeled on the face or display side in a readable and conspicuous form to show the following information:

1. The net weight of the contents;
2. The name of the product;
3. The guaranteed analysis;
4. A statement as to the purpose of the product;
5. Adequate directions for use; and
6. The name and address of the registrant.

B. Bulk lots shall be labeled by attaching a copy of the label to the invoice that shall be furnished to the purchaser.

C. The State Board of Agriculture may require proof of claims made for any soil amendment. If no claims are made, the Board may require proof of usefulness and value of the soil amendment. For evidence of proof the Board may rely on experimental data, evaluations, or advice supplied from sources including but not limited to the Director of the Agricultural Experiment Station. The experimental design shall be related to Oklahoma conditions for which the product is intended. The Board may accept or reject other sources of proof as additional evidence in evaluating soil amendments.

D. No soil amending ingredient may be listed or guaranteed on the labels or labeling of soil amendments without Board approval.

E. The Board may allow a soil amending ingredient to be listed or guaranteed on the label or labeling if satisfactory supportive data is provided the Board to substantiate the value and usefulness of the soil amending ingredients. The Board may rely on outside sources including but not limited to the Director of the Agricultural Experiment Station for assistance in evaluating the data submitted.

F. If the Board approves the listing of guarantee of a soil amending ingredient, it shall be subject to inspection and analysis.

G. The Board may prescribe methods and procedures of inspection and analysis of the soil amending ingredient. The Board may stipulate, by rule, the quantities of the soil amending ingredient or soil amending ingredients required in soil amendments.

Added by Laws 1975, c. 181, § 4, emerg. eff. May 22, 1975. Amended by Laws 2001, c. 146, § 83, emerg. eff. April 30, 2001. Renumbered from § 1704 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001. Amended by Laws 2005, c. 415, § 2, eff. Nov. 1, 2005.

§2-8-85.5. Registration - Fee - Penalties.

A. Each soil amendment product shall be registered with the State Board of Agriculture before it is distributed in this state. Application for registration shall be submitted to the Board, on a form, showing the information required on the label, as provided in Section 8-85.4 of this title and rules promulgated pursuant thereto, except net weight of product.

B. The registration fee shall be One Hundred Dollars (\$100.00) for each product.

C. All registrations shall expire on December 31 of the year for which the soil amendment product is registered.

D. The applicant shall submit with the application for registration a copy of the label and a copy of all advertisements, brochures, posters, and television and radio announcements to be used in promoting the sale of the soil amendment.

E. If the Board finds any soil amendment product that has not been registered, the registration was falsely submitted, or the registration was late, the Board may establish and assess a penalty. The penalty shall be assessed per product and be added to the registration fee and payment shall be made within thirty (30) days after receipt of notice.

Added by Laws 1975, c. 181, § 5, emerg. eff. May 22, 1975. Amended by Laws 2001, c. 146, § 84, emerg. eff. April 30, 2001. Renumbered from § 1705 of Title 2 by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001. Amended by Laws 2002, c. 383, § 8, eff. July 1, 2002; Laws 2005, c. 415, § 3, eff. Nov. 1, 2005.

§2-8-85.6. Repealed by Laws 2002, c. 383, § 9, eff. July 1, 2002.

§2-8-85.7. Stop sale, stop use or removal order.

The State Board of Agriculture may issue and enforce a written or printed stop sale, stop use, or removal order to the owner or custodian of any lot of soil amendment, and shall hold such lot of soil amendment at a designated place when the Board finds a soil amendment is being offered or exposed for sale that is not registered, is not labeled, is misbranded, or is adulterated, until

the time when the product or labeling complies with this act. The soil amendment may then be released in writing by the Board. Added by Laws 1975, c. 181, § 7, emerg. eff. May 22, 1975. Amended by Laws 2001, c. 146, § 86, emerg. eff. April 30, 2001. Renumbered from § 1707 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001.

§2-8-85.8. Violations.

It shall be a violation of the Soil Amendment Act for any person:

1. To distribute a soil amendment that is not registered with the State Board of Agriculture;

2. To distribute a soil amendment that is not labeled;

3. To distribute a soil amendment that is misbranded;

4. To distribute a soil amendment that is adulterated;

5. To fail to comply with a stop sale, stop use, or removal order; or

6. To violate any other provision of the Soil Amendment Act.

Added by Laws 1975, c. 181, § 8, emerg. eff. May 22, 1975. Amended by Laws 2001, c. 146, § 87, emerg. eff. April 30, 2001. Renumbered from § 1708 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001. Amended by Laws 2005, c. 415, § 4, eff. Nov. 1, 2005.

§2-8-85.9. Duties of agents.

A. The State Board of Agriculture may inspect, sample, analyze, and test soil amendments distributed in this state at any time and place, and to the extent necessary to determine whether the soil amendments are in compliance with the Soil Amendment Act.

B. The Board and its employees or agents are authorized to enter upon public or private property during regular working hours to access soil amendments for the purpose of administering the Soil Amendment Act.

Added by Laws 1975, c. 181, § 9, emerg. eff. May 22, 1975. Amended by Laws 2001, c. 146, § 88, emerg. eff. April 30, 2001. Renumbered from § 1709 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001.

§2-8-85.10. Promulgation of rules.

The State Board of Agriculture shall promulgate rules necessary to administer the Soil Amendment Act, including but not limited to methods of sampling, methods of analysis, designation of ingredients, and promulgate definitions of identity of products, acceptable ingredients for registration, and labeling formats.

Added by Laws 1975, c. 181, § 10, emerg. eff. May 22, 1975. Amended by Laws 2001, c. 146, § 89, emerg. eff. April 30, 2001. Renumbered from § 1710 of this title by Laws 2001, c. 146, § 255, emerg. eff.

April 30, 2001. Amended by Laws 2005, c. 415, § 5, eff. Nov. 1, 2005.

§2-8-85.11. Revocation of registration - Hearing.

The State Board of Agriculture shall refuse to register any product that does not comply with the Soil Amendment Act and rules promulgated thereto. The Board may revoke any registration upon satisfactory evidence that the registrant or any of its agents used fraudulent or deceptive practices. A registration shall not be revoked by the Board until the registrant has been given an opportunity for a hearing before the Board in compliance with the provisions of Article II of the Administrative Procedures Act. Added by Laws 1975, c. 181, § 11, emerg. eff. May 22, 1975. Amended by Laws 2001, c. 146, § 90, emerg. eff. April 30, 2001. Renumbered from § 1711 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001.

§2-8-85.12. Deposit of funds.

The State Board of Agriculture shall remit at least monthly all monies received pursuant to the Soil Amendment Act to the State Treasurer. Upon receipt of the monies the State Treasurer shall deposit the entire amount in the State Treasury and shall credit the monies to an appropriate State Department of Agriculture Fund. Added by Laws 1975, c. 181, § 13, emerg. eff. May 22, 1975. Amended by Laws 2001, c. 146, § 91, emerg. eff. April 30, 2001. Renumbered from § 1713 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001.

§2-8-85.13. Renumbered as § 11-10 of this title by Laws 2002, c. 173, § 20, emerg. eff. May 6, 2002.

§2-8-91. Definitions.

When used in this subarticle:

1. "Advertisement" means and includes any representation, except information on the label or invoice, disseminated in any manner relating to weed-infested material;
2. "Labeling" means any label or other written, printed, or graphic representation, in any form including invoices, accompanying and pertaining to any weed-infested material in bulk or containers;
3. "Noxious weeds" means bindweed and other weeds declared to be noxious by the State Board of Agriculture; and
4. "Weed-infested material" means and includes feeds, grain or grains, screenings, hay, bedding, fertilizer, or any other material containing any seeds, root stalks, or reproductive portions of noxious weeds.

Added by Laws 1955, p. 77, art. 8(E), § 1. Amended by Laws 2000, c. 367, § 121, emerg. eff. June 6, 2000.

§2-8-92. Unlawful acts.

A. It shall be unlawful for any person to sell, offer for sale, or knowingly transport within this state any weed-infested material:

1. Bearing a false or misleading label and/or invoice;
2. Bearing a false or misleading statement regarding absence or presence of noxious weeds; and
3. Containing any seeds, root stalks, or reproductive portions of noxious weeds.

B. It shall be unlawful for any person within this state:

1. To detach, alter, deface, or destroy any label or invoice provided for in this subarticle or rules or to alter or substitute weed-infested material that may in any manner defeat the purpose of this subarticle;
2. To disseminate any false or misleading advertisement concerning weed-infested material in any manner;
3. To hinder or obstruct the State Board of Agriculture in the performance of its duties and functions under the provisions of this subarticle; and
4. To fail to comply with a "stop-sale" order made pursuant to the provisions of this subarticle.

Added by Laws 1955, p. 78, art. 8(E), § 2. Amended by Laws 2000, c. 367, § 122, emerg. eff. June 6, 2000.

§2-8-93. Exemptions.

A. The provisions of the preceding section shall not apply to weed-infested material in storage in, or consigned to, a processing establishment for cleaning or processing, or weed-infested material transported by producers from their farms to an elevator, or from farm-to-market. Any labeling, invoice, or other representation which may be made with respect to the uncleaned or unprocessed weed-infested material shall be subject to the provisions of this subarticle.

B. No unprocessed weed-infested material shall be transported by any person over or along any road or highway in this state or by any railroad operating in this state, unless the same is carried or transported in a vehicle or containers adequate to prevent the leaking or scattering of the weed-infested material. In no instance shall weed-infested material be sold to the ultimate consumer (including a livestock feeder) until the material shall have been processed to destroy the viability of the noxious weed-infested content.

Added by Laws 1955, p. 78, art. 8(E), § 3. Amended by Laws 2000, c. 367, § 123, emerg. eff. June 6, 2000.

§2-8-94. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-8-95. Seizure - Condemnation - Disposal.

Any lot or amount of weed-infested material that is not in compliance with the provisions of this subarticle shall be subject to seizure upon petition of the State Board of Agriculture, to the district court of the county in which the weed-infested material is found or is located. If the weed-infested material is found to be in violation of the provisions of this subarticle, the district court shall enter an order condemning the weed-infested material and directing that the material be denatured, processed, destroyed, or disposed of in compliance with the provisions of this subarticle. Added by Laws 1955, p. 79, art. 8(E), § 5. Amended by Laws 2000, c. 367, § 124, emerg. eff. June 6, 2000.

§2-8-96. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-9-1. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-9-20. Short title.

This subarticle shall be known and may be cited as the "Public Warehouse and Commodity Indemnity Act".

Added by Laws 1987, c. 125, § 1, emerg. eff. June 2, 1987. Amended by Laws 2000, c. 243, § 83, emerg. eff. May 24, 2000.

§2-9-21. Definitions.

As used in the Public Warehouse and Commodity Indemnity Act:

1. "Charter" means a franchise issued to a person for the operation of a public warehouse;
2. "Commodities" means nonperishable grains or seeds;
3. "Depositor" means any person storing commodities with a state-chartered or federally licensed warehouse;
4. "Electronic document" means a document that is generated, sent, received, or stored by electronic data interchange, electronic mail, telegram, telex, or telecopy;
5. "Electronic receipt" means a receipt that is authorized by the State Board of Agriculture to be issued under this act in the form of an electronic document;
6. "Full market value" means the value required by law to be used by insurance underwriters in paying for losses of commodities insured for their actual cash value;
7. "Indemnity" means the Oklahoma Commodity Storage Indemnity Fund;
8. "Loss" means any monetary reduction in value to a producer of an extraordinary nature and which shall include, but not be limited to, bankruptcy, embezzlement, theft or fraud;

9. "Producer" means any person planting, raising, growing, or harvesting commodities;

10. "Public warehouse" means any place where commodities are received for storage, received for transfer to other public warehouses, or both;

11. "Storage" or "warehousing" means any method of holding commodities by a party other than the direct owner except for transportation;

12. "Warehouseman" means any person operating a public warehouse; and

13. "Warehouse receipt" means every receipt issued by a warehouseman for commodities pursuant to the Public Warehouse and Commodity Indemnity Act.

Added by Laws 1955, p. 79, art. 9(B), § 1. Amended by Laws 1977, c. 106, § 1, emerg. eff. May 27, 1977; Laws 1987, c. 125, § 2, emerg. eff. June 2, 1987; Laws 1988, c. 149, § 1, emerg. eff. May 2, 1988; Laws 1990, c. 155, § 1, emerg. eff. May 1, 1990; Laws 1997, c. 10, § 1, eff. July 1, 1997; Laws 2000, c. 243, § 84, emerg. eff. May 24, 2000; Laws 2001, c. 119, § 1, eff. Nov. 1, 2001.

§2-9-22. State-chartered warehousemen - Reinsurance fee - Net worth requirement - Bonds, certificates of deposit and irrevocable letters of credit - Bond cancellation.

A. 1. It shall be unlawful and a misdemeanor for any person to operate a public warehouse unless such person shall have obtained and holds a charter therefor issued by the State Board of Agriculture or be licensed and bonded as required by the United States Warehouse Act.

2. Each application for a charter issued by the Board shall be on a form prescribed by the Board. The Board shall charge and collect a one-time fee of One Hundred Dollars (\$100.00) for each charter. The Board shall deposit the fees in the State Department of Agriculture Revolving Fund.

3. No charter shall be issued by the Board until the applicant therefor has filed with the Board a financial statement prepared by an independent certified public accountant and such other financial information as shall be required by the Board.

B. 1. The Board shall also charge and collect a fee of Ten Dollars (\$10.00) per One Thousand Dollars (\$1,000.00) of surety. The fee shall be deposited in the Commodity Storage Indemnity Fund and shall be specially designated and accounted for as a reinsurance fee. The Board shall use the reinsurance fee to provide protection to the Indemnity. If upon determination by the Board that the fee of Ten Dollars (\$10.00) is not sufficient to adequately provide protection of the Indemnity, the Board is authorized to assess an additional fee in such an amount so as to provide the necessary protection for the Indemnity provided such additional fee shall not exceed Twenty

Dollars (\$20.00) per One Thousand Dollars (\$1,000.00) of surety. The additional assessment shall only be collected from those persons securing surety through this section.

2. Surety required by this section shall be in the same amounts as shall be required for bonds or certificates of deposit as specified in subsection D of this section. Claims against the surety shall be paid by the Board from the Indemnity in the same manner as shall be required for bonds or certificates of deposit. A corporate surety bond or certificate of deposit, as specified in subsection D of this section, may be used to secure a charter in lieu of the reinsurance fee.

C. The applicant, in order to qualify for a charter issued by the Board, as evidence of the applicant's financial status shall have a net worth equal to twenty-five cents (\$0.25) per bushel for the first four million (4,000,000) bushels of chartered capacity but not less than Fifty Thousand Dollars (\$50,000.00). All chartered capacity in excess of four million (4,000,000) bushels shall be computed at the rate of ten cents (\$0.10) per bushel for net worth purposes. In case of a net worth deficiency, the warehouseman shall furnish a surety bond or certificate of deposit in an amount equal to such deficiency. The bond or certificate of deposit shall be filed and made payable to the Board for the benefit of all persons storing commodities with the applicant as a state-chartered warehouseman. Insurable property owned by the warehouseman may only be included in the net worth of the warehouse, provided it is insured to at least eighty percent (80%) of its appraised value. The Board may require a certified property appraisal provided by an appraiser approved by the Board. If the net worth of the applicant or charter holder is less than One Million Dollars (\$1,000,000.00), a financial statement shall be submitted annually. Financial statements shall be prepared and submitted by an independent certified public accountant, describing the current financial position of the applicant, and include such other information required by the Board. Corporate surety bonds shall be on a form prescribed by the Board, on condition that the applicant will fulfill all obligations as a warehouseman. The Board may require the applicant or charter holder to provide a profit and loss statement and an audited financial statement prepared by an independent certified public accountant.

D. The bond, certificates of deposit, or irrevocable letter of credit issued by a financial institution that is insured by the Federal Deposit Insurance Corporation (FDIC) or chartered by the farm credit system organized under the "Farm Credit Act of 1971" shall be payable to the Board for the benefit of all persons storing commodities with the applicant as a state-chartered warehouseman. The amount of bond or certificates of deposit to be furnished for each state-chartered warehouse shall be fixed at a rate of twenty-five cents (\$0.25) per bushel of chartered capacity, provided that

the amount of the bond or certificates of deposit shall be not less than Fifty Thousand Dollars (\$50,000.00) nor more than Five Hundred Thousand Dollars (\$500,000.00). The chartered capacity shall be the maximum number of bushels of commodities that the warehouse may accommodate. Depositors, including producers, suffering a loss due to a violation of any of the terms of the Public Warehouse and Commodity Indemnity Act may recover such loss up to the amount of the bond or certificates of deposit, and claims therefor may be instituted with the Board by such person. Each state charter issued pursuant to the provisions of this section shall be for the life of the person. Such state charter may be suspended, revoked or denied by the Board, after notice by registered mail and an opportunity to be heard has been given, for a failure to maintain the financial status required or adequate insurance on all commodities received in store, or received for storage or for handling for restorage, or for a violation of any of the provisions of the Public Warehouse and Commodity Indemnity Act or of any rule of the Board adopted pursuant thereto. Upon evidence of just and good cause, such state charter may be temporarily suspended without a hearing, for a period of not to exceed thirty (30) days. Whenever a state charter is suspended or revoked, the Board shall immediately give notice thereof, by registered United States mail, to the holder of such charter, who may, within twenty (20) days after receipt of such notice, appeal to the district court of Oklahoma County. The district court, after a full hearing, shall make an order either sustaining the action of the Board or reinstating the charter.

E. Upon cancellation of the bond, all indemnifications held by the bonding company shall be released to the warehouseman following the second consecutive satisfactory inspection or examination by the Board.

Added by Laws 1955, p. 80, art. 9(B), § 2. Amended by Laws 1977, c. 106, § 2, emerg. eff. May 27, 1977; Laws 1980, c. 110, § 8; Laws 1982, c. 259, § 1, emerg. eff. May 14, 1982; Laws 1987, c. 125, § 3, emerg. eff. June 2, 1987; Laws 1988, c. 149, § 2, emerg. eff. May 2, 1988; Laws 1990, c. 155, § 2, emerg. eff. May 1, 1990; Laws 1997, c. 10, § 2, eff. July 1, 1997; Laws 2001, c. 119, § 2, eff. Nov. 1, 2001.

NOTE: Laws 1980, c. 110, § 8 repealed by Laws 1982, c. 259, § 2, emerg. eff. May 14, 1982.

§2-9-23. Warehouse name - Issuance and validity of charter.

A. Each application for a charter shall include the name used by the warehouse and the name shall be shown on the charter. No warehouse shall be operated by or under any name other than that shown on the charter.

B. No charter shall be issued or remain valid if the applicant or warehouseman has:

1. Failed to meet or maintain the financial or surety requirements;
2. Filed an incomplete or fraudulent application or report;
3. Inadequate facilities to properly store and maintain commodities;
4. Failed to properly store commodities or maintain the quality and quantity of commodities in storage;
5. Failed to pay required fees; or
6. Been convicted of a felony based on fraud, theft, embezzlement, misappropriation of funds, or any act of moral turpitude.

Added by Laws 1955, p. 80, art. 9(B), § 3. Amended by Laws 1987, c. 125, § 4, emerg. eff. June 2, 1987; Laws 1997, c. 10, § 3, eff. July 1, 1997; Laws 2000, c. 243, § 85, emerg. eff. May 24, 2000.

§2-9-24. Suspension, revocation or surrender of charter, license or bond - Indemnity Fund lien - Venue - Notice - Renewal of charter - Seizure of commodities - Identification and date of loss - Claim of loss.

A. 1. Upon the suspension, revocation, or voluntary surrender of the state charter, federal license, or bond of a warehouseman or public warehouse, a statutory lien shall be and hereby is imposed on all assets of the warehouseman or public warehouse in favor of the Oklahoma Commodity Storage Indemnity Fund on behalf of all depositors who are eligible to file a claim pursuant to subsection I of this section.

2. The lien and payment rights of all depositors are hereby assigned to the Indemnity for purposes of implementing this section.

3. To perfect the lien, the Oklahoma Department of Agriculture, Food, and Forestry, on behalf of the Indemnity, shall file a lien statement with the Oklahoma County Clerk.

4. The lien shall become effective and deemed fully perfected immediately upon filing of the lien statement.

- a. The initial lien amount shall be based on a reasonable estimate of the amounts paid by the Department and the Indemnity and other costs and expenses described in this section.
- b. The lien statement shall be filed only on or after the date of the suspension, revocation, or voluntary surrender of the state charter, federal license, or bond of the subject warehouseman or public warehouse but not later than sixty (60) days after the incurrence of the triggering event.
- c. The lien statement shall disclose the name of the warehouseman or public warehouse, the address of the party's principal place of business, a description of any known and identifiable warehouseman or warehouse

assets or a statement that none are known at such time, and the amount of the lien.

5. The amount of the lien shall be the aggregate of:
 - a. the amount of the incurred by the Department and the Indemnity for the conduct of salvage operations of the warehouseman or public warehouse,
 - b. all amounts paid by the Department and the Indemnity to depositors of the warehouseman or public warehouse from the Oklahoma Commodity Storage Indemnity Fund, including but not limited to the final cost of reimbursing the depositors and the Indemnity for the payment of claims made against the fund,
 - c. associated costs and expenses, if any, and
 - d. accrued interest at the rate of ten percent (10%) per annum.

6. The Department, on behalf of the Indemnity, shall file a corrected lien statement to revise the estimated amount of the lien not later than one hundred eighty (180) days following the incurrence date; however, the failure to file a corrected lien statement shall not affect the validity or the amount of the subject lien.

7. The District Court of Oklahoma County, upon petition by one or more producers, may undertake an action to correct the lien amount. The Department, on behalf of the Indemnity, shall have the burden of proving by a preponderance of the evidence that any estimated lien amount is an accurate estimate.

8. A lien statement filed under this section shall be a security interest perfected under the uniform commercial code in effect in Oklahoma and subject to the same priority as provided in Section 1-9-322 of Title 12A of the Oklahoma Statutes except that the subject lien statement shall have priority over any levies or liens for taxes regardless of the time when the subject lien statement or any such tax levies or lien arises.

9. The lien statement may be collected in any manner allowed by law including levy upon all property of the warehouseman or public warehouse in the same manner as the levy of an execution.

10. The Department, on behalf of the Indemnity, shall upon written demand of the warehouseman or public warehouse file a termination statement with the Oklahoma County Clerk, if the license of the warehouseman is not revoked, suspended, surrendered, terminated, or canceled after one hundred eighty (180) days from the date the lien statement is perfected.

- a. upon filing of the termination statement, the lien becomes unperfected.
- b. the Department, on behalf of the Indemnity, shall deliver a copy of the termination statement to the warehouseman or public warehouse.

B. The District Court of Oklahoma County shall be the sole venue for questions of jurisdiction or venue in all civil actions challenging the acts of the Department in the administration of the Public Warehouse and Commodity Indemnity Act.

C. The Department shall publish notice for two (2) consecutive weeks in a newspaper of general circulation in the area of the public warehouse when the warehouse charter is suspended or revoked.

D. When the charter of a warehouseman is renewed after suspension or revocation, the Department shall publish notice for two (2) consecutive weeks in a newspaper of general circulation in the area of the public warehouse that the warehouse is in compliance with the Public Warehouse and Commodity Indemnity Act.

E. Upon the suspension, revocation, or voluntary surrender of the charter, the Department may seize all commodities under the control of the warehouseman or public warehouse, including commodities stored or forwarded to other locations. The Department, upon suspension, revocation, or surrender of the charter, shall seize all commodity stocks of the warehouseman or public warehouse including any commodities stored or forwarded to other locations and sell the commodities. Funds generated by the sale of seized commodities shall be distributed in the following manner:

1. The Department shall receive an amount equal to the cost of salvage operations;

2. All remaining funds shall be proportioned among all depositors storing commodities with the warehouseman. No person shall receive payment of funds greater than the fair market value of the commodity lost by the depositors on the date of seizure;

3. Funds generated in excess of the payments required by the Public Warehouse and Commodity Indemnity Act shall be deposited in the Indemnity; and

4. The persons responsible for violations of the Public Warehouse and Commodity Indemnity Act resulting in a charter suspension, revocation, or surrender, or commodity seizure shall not be eligible to claim or recover proceeds from the sale or interest accrued on the proceeds from the sale of seized commodities unless approved by the State Board of Agriculture.

F. A person storing commodities with a warehouseman not holding a valid charter or federal license is not eligible to file a claim or recover damages under the Public Warehouse and Commodity Indemnity Act.

G. 1. Upon suspension, revocation, or surrender of the warehouse charter, the Department shall identify any loss to the depositors and obtain proof. The Department shall immediately notify any bonding company providing a bond for a loss. As soon as practicable, the Department shall communicate the amount of the loss, proof, and the date of loss and seizure to the bonding company. The bonding company shall within thirty (30) calendar days remit to the

Department the amount of the loss or the face amount of the bond, whichever is less.

2. Failure by the bonding company to surrender the funds shall result in a nonrefundable penalty assessment payable to the Department of one percent (1%) per month plus interest of one percent (1%) per month of the face amount of the bond commencing with the date of loss and continuing until the surety funds are surrendered. The Department shall account for all the surety received until all depositor claims against the charter holder are paid as provided in the Public Warehouse and Commodity Indemnity Act. When all claims have been paid, all unexpended bond surety funds including accrued interest, except penalties, shall be returned to the bonding company.

3. The provisions of this section shall not prohibit the Department from pursuing any other remedy provided by law.

H. The Department shall establish a date of loss which shall be the same as the date of seizure for all claims of loss against a warehouseman. The Department shall publish the date of loss as set forth in subsection C of this section and shall notify by registered mail all depositors who may have a claim against a warehouseman of the date of loss and deadline for filing claims.

I. To be eligible to file a claim of loss and receive payment as provided in the Public Warehouse and Commodity Indemnity Act, a person shall establish ownership or title to commodities stored or warehoused with the warehouseman or public warehouse against whom the loss is alleged. Evidence of ownership or title shall include uncanceled warehouse receipts or scale tickets. The Department shall determine the sufficiency of evidence of ownership or title.

J. Depositors shall, within sixty (60) days of the order of the Department establishing the date of loss, file a written claim of loss with the Department. Depositors may submit a written request to the Board for a sixty-day extension of the filing period, if the depositors can show they were not provided notification and reasonable time to file the claim. If the claim of loss is not filed within the allotted time, the depositor shall forfeit all rights to remuneration or payment.

Added by Laws 1955, p. 80, art. 9(B), § 4, emerg. eff. June 3, 1955. Amended by Laws 1985, c. 144, § 1, emerg. eff. June 7, 1985; Laws 1987, c. 125, § 5, emerg. eff. June 2, 1987; Laws 1990, c. 155, § 3, emerg. eff. May 1, 1990; Laws 1997, c. 10, § 4, eff. July 1, 1997; Laws 2000, c. 243, § 86, emerg. eff. May 24, 2000; Laws 2001, c. 119, § 3, eff. Nov. 1, 2001; Laws 2006, c. 216, § 1, eff. July 1, 2006.

§2-9-25. Reports by warehouseman - Right of entry and audit - Commodity open storage records - Inspection fees.

A. When requested by the State Board of Agriculture, any warehouseman, who stores or handles for storage commodities shall make a report to the Board concerning the condition, conduct,

operation, and business of each public warehouse the warehouseman operates and the commodities stored at each location.

B. Any warehouseman who stores or handles for storage commodities shall permit any authorized agent to enter and audit each warehouse, its contents, examine all warehouse receipts and scale tickets, examine all deferred price and deferred payment contracts, examine all records involving the sale or purchase of commodities to or from other warehouses or persons, verify all records related to forwarded grain or grain in transit, and the storage and financial records. The public warehouseman shall render any assistance required by the Board in checking any condition or books in connection with each location or warehouse.

C. The authority granted the Board in this section shall include all warehouse receipts, scale tickets, deferred price and deferred payment contracts, forwarded grain or grain in transit, sales or purchases of commodities to or from other warehouses or persons, commodities and open storage records. The Board shall verify the accuracy of commodity open storage records when commodities are stored at other locations.

D. 1. The Board shall make at least one inspection or examination annually of each state chartered warehouse. The Board shall charge a fee, that when used in conjunction with available appropriated funds is sufficient to pay the cost of each examination or inspection. A warehouseman may request an additional inspection or examination at a fee commensurate with the actual cost. All inspection or examination fees collected shall be deposited in the State Department of Agriculture Revolving Fund.

2. The Board may enter cooperative agreements with the United States Department of Agriculture for warehouse inspections.

3. No provisions of this section shall apply to warehouses licensed under the U.S. Warehouse Act, Title 7, U.S.C., Section 241 et seq.

Added by Laws 1955, p. 80, art. 9(B), § 5. Amended by Laws 1977, c. 106, § 3, emerg. eff. May 27, 1977; Laws 1979, c. 77, § 1, emerg. eff. April 20, 1979; Laws 1987, c. 125, § 6, emerg. eff. June 2, 1987; Laws 1988, c. 149, § 3, emerg. eff. May 2, 1988; Laws 1997, c. 10, § 5, eff. July 1, 1997; Laws 2000, c. 243, § 87, emerg. eff. May 24, 2000.

§2-9-26. Insurance - Notice of loss.

A. Each state-chartered warehouseman shall insure and keep insured, in the warehouseman's own name, all of the commodities in store, received for storage, or handled for storage for the full market value of the commodities, against loss or damage by fire, lightning, inherent explosion, windstorm, cyclone, or tornado.

B. In the event of any loss or damage to the commodities or the warehouse, the warehouseman shall immediately notify the State Board

of Agriculture and at the expense of the warehouseman promptly take the steps necessary to collect any monies which may be due as indemnity for the loss or damage.

C. In the event the warehouseman insures against hazards not specified, the insurance shall inure to the benefit of the producers. Added by Laws 1955, p. 81, art. 9(B), § 6. Amended by Laws 1987, c. 125, § 7, emerg. eff. June 2, 1987; Laws 1997, c. 10, § 6, eff. July 1, 1997; Laws 2000, c. 243, § 88, emerg. eff. May 24, 2000.

§2-9-27. Scale tickets - Delivery upon demand.

A. 1. Each warehouseman, upon weighing commodities, shall issue a scale ticket to the person from whom the commodities are received on a form approved by the State Board of Agriculture. No scale ticket shall be issued unless the Board has approved the form. The scale ticket shall contain, but not be limited to, preprinted consecutive numbers and lines for entering the weight, grade, kind, test, and moisture of the commodity, the name and address of the owner, and the signature or initials of the licensed weigher and grader. The grade and the factors used to establish the grade shall be documented on each scale ticket.

2. Each warehouseman is required to have a licensed weigher and grader at each location to supervise the weighing and grading of commodities received and sign the scale ticket.

3. The scale ticket shall be nonnegotiable, but may singly or with others be exchanged for a state or federal negotiable warehouse receipt. A scale ticket has protection under the surety provisions of the Public Warehouse and Commodity Indemnity Act equal to a warehouse receipt.

4. No warehouseman shall store a commodity except in a state-chartered or federally licensed and bonded warehouse.

B. The warehouseman, in the absence of some lawful excuse, shall immediately deliver the commodities stored upon a demand made either by the holder of a receipt for the commodities or by the depositor if the demand is accompanied by:

1. An offer to satisfy the warehouseman's lien;

2. An offer to surrender the receipt, if negotiable, with endorsements as necessary for the negotiation of the receipts; and

3. A readiness and willingness to sign an acknowledgment that the commodities have been delivered if a signature is requested by the warehouseman.

Added by Laws 1955, p. 81, art. 9(B), § 7. Amended by Laws 1977, c. 106, § 4, emerg. eff. May 27, 1977; Laws 1987, c. 125, § 8, emerg. eff. June 2, 1987; Laws 1988, c. 259, § 13, emerg. eff. June 29, 1988; Laws 1997, c. 10, § 7, eff. July 1, 1997; Laws 2000, c. 243, § 89, emerg. eff. May 24, 2000.

§2-9-28. Warehouse receipts - Form - Furnishing by Board - Price.

Negotiable public warehouse receipts shall be in a form prescribed and designed by the State Board of Agriculture. The Board shall furnish warehouse receipts to warehousemen at a price commensurate with the cost of preparation, printing and delivery. Added by Laws 1955, p. 81, art. 9(B), § 8. Amended by Laws 1977, c. 106, § 5, emerg. eff. May 27, 1977; Laws 1987, c. 125, § 9, emerg. eff. June 2, 1987; Laws 1997, c. 10, § 8, eff. July 1, 1997.

§2-9-28.1. Electronic receipts and documents - Security interest - Rule making.

Notwithstanding any other provision of federal or state law:

1. Electronic receipts issued, and electronic documents transferred, under this subsection with respect to an agricultural product may be recorded in, and transferred under, a system maintained in one or more locations and approved by the State Board of Agriculture in accordance with rules issued under this act;

2. Any person designated as the holder of an electronic receipt or other electronic document under this act shall, for the purpose of perfecting the security interest of the person under federal or state law and for all other purposes, be considered to be in possession of the electronic receipt or other electronic document;

3. An electronic receipt issued, or other electronic document transferred, in accordance with this act shall not be denied legal effect, validity, or enforceability on the ground that the information is generated, sent, received, or stored by electronic or similar means;

4. A person shall not be required to issue in electronic form a receipt or document with respect to an agricultural product;

5. The Board shall promulgate rules that authorize the issuance, recording, and transfer of electronic receipts, and the transfer of other electronic documents, in accordance with this subsection; and

6. The Board shall promulgate rules governing one or more electronic systems under which electronic receipts may be issued and transferred and other electronic documents relating to the shipment, payment, and financing of the sale of agricultural products may be transferred.

Added by Laws 2001, c. 119, § 4, eff. Nov. 1, 2001.

§2-9-31. Lost or destroyed receipt - Duplicate receipts - Settlement for stored commodities - Canceled original warehouse receipts.

A. If a warehouse receipt is lost or destroyed and a duplicate receipt is desired, a duplicate shall be issued in the same manner as the original receipt upon affidavit of the owner of the original receipt that the receipt has been lost or destroyed. When the owner has furnished the warehouseman an acceptable bond in an amount equal to the value of the commodities represented by the lost or destroyed receipt at the time the bond is given, the bond shall indemnify the

warehouseman against loss or damage by reason of the issuance of the duplicate receipt.

B. If a warehouse receipt is lost or destroyed and a settlement for the stored commodities is desired, the settlement shall be made upon affidavit of the owner of the original receipt that the receipt has been lost or destroyed. When the owner has furnished the warehouseman an acceptable bond in an amount equal to the value of the commodities represented by the lost or destroyed receipt at the time the bond is given, the bond shall indemnify the warehouseman against loss or damage sustained by reason of making the settlement of delivering the described commodities.

C. Bonds executed in accordance with this section shall be treated as canceled original warehouse receipts.
Added by Laws 1955, p. 82, art. 9(B), § 11. Amended by Laws 1997, c. 10, § 9, eff. July 1, 1997; Laws 2000, c. 243, § 90, emerg. eff. May 24, 2000.

§2-9-32. Scales and equipment.

Each warehouseman shall maintain correct and accurate scales and equipment for weighing and keeping records of all commodities received.

Added by Laws 1955, p. 82, art. 9(B), § 12. Amended by Laws 1997, c. 10, § 10, eff. July 1, 1997; Laws 2000, c. 243, § 91, emerg. eff. May 24, 2000.

§2-9-33. Inspection, grading and storing of commodities.

All commodities received by a warehouseman shall be inspected, graded, and stored by commodity. If the owner or consignee requests and the warehouseman consents, the owner's or consignee's commodities may be kept in a separate bin. The bin shall be marked "Special" with the name of the owner and with the quantity and grade of the commodities.

Added by Laws 1955, p. 82, art. 9(B), § 13. Amended by Laws 1997, c. 10, § 11, eff. July 1, 1997; Laws 2000, c. 243, § 92, emerg. eff. May 24, 2000.

§2-9-34. Unlawful acts - Commodity storage and receipts - Penalties - Prepositioning of commodity stocks.

A. It shall be a felony for any warehouseman, employee, or manager of a public warehouse to knowingly:

1. Issue or receive a fraudulent warehouse receipt regarding, but not limited to, commodities that are not actually stored at the time of issuing the receipt, issuing any warehouse receipt or scale ticket that is in any respect fraudulent in its character, either as to its date or to the quantity, quality, or inspected grade of the commodities, or who shall remove any commodities from store, except to preserve the commodities from fire or other damage without the

return and cancellation of all outstanding receipts that may have been issued to represent the commodities; or

2. Issue a delayed pricing contract, deferred payment contract, or any other records for sales of commodities in a fraudulent manner without the full knowledge and consent of the producer.

A violation of this section shall, upon conviction, be punishable by a fine of not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment in the State Penitentiary for not more than ten (10) years or by both such fine and imprisonment.

B. The State Board of Agriculture, upon application from the warehouseman, may approve the prepositioning of commodity stocks in state-chartered or federally licensed terminal warehouses in order to free storage space for new harvest commodities. The period for such action shall not exceed sixty (60) days prior to anticipated beginning of harvest for the commodity nor can they be out of position more than one hundred eighty (180) days. The Board may extend the time period an additional one hundred eighty (180) days as specified by rules promulgated by the Board.

Added by Laws 1955, p. 82, art. 9(B), § 14, emerg. eff. June 3, 1955. Amended by Laws 1977, c. 106, § 6, emerg. eff. May 27, 1977; Laws 1987, c. 125, § 10, emerg. eff. June 2, 1987; Laws 1997, c. 133, § 93, eff. July 1, 1999; Laws 1999, c. 157, § 6, eff. Nov. 1, 1999; Laws 2000, c. 243, § 93, emerg. eff. May 24, 2000; Laws 2001, c. 119, § 5, eff. Nov. 1, 2001.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 93 from July 1, 1998, to July 1, 1999.

NOTE: Laws 1997, c. 10, § 12 repealed by Laws 1999, c. 157, § 7, eff. Nov. 1, 1999.

§2-9-35. Unlawful acts - Commodity storage and receipts - Penalties.

Any warehouseman, manager, or other employee of a public warehouse, who issues or aids in issuing a warehouse receipt for any commodities, without knowing that the commodities have actually been placed in a public warehouse, who delivers any commodities from a public warehouse without the surrender and cancellation of the warehouse receipt, or who fails to mark the depositor's receipt "Cancelled" on the delivery of the commodities, shall, upon conviction, be guilty of a felony. The fine for a violation of this section shall not be more than Ten Thousand Dollars (\$10,000.00), or by imprisonment in the State Penitentiary for a term of not more than twenty (20) years, or by both such fine and imprisonment.

Added by Laws 1955, p. 82, art. 9(B), § 15, emerg. eff. June 3, 1955. Amended by Laws 1997, c. 133, § 94, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 31, eff. July 1, 1999; Laws 2000, c. 243, § 94, emerg. eff. May 24, 2000.

NOTE: Laws 1997, c. 10, § 13 repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 94 from July 1, 1998, to July 1, 1999.

§2-9-36. Public warehouse designations - Penalty.

No public warehouse shall be designated as chartered or operated under the provisions of the Public Warehouse and Commodity Indemnity Act and no name or description conveying the impression that it is chartered or operated shall be used unless the public warehouse is chartered. Any person who misrepresents, forges, alters, counterfeits, simulates, or falsely represents the charter required by the Public Warehouse and Commodity Indemnity Act, or who issues, utters, or assists or attempts to issue or utter, a false or fraudulent receipt for any commodities, shall be, upon conviction, guilty of a felony. The fine for a violation of this section shall not be more than Ten Thousand Dollars (\$10,000.00), or by imprisonment in the State Penitentiary for a term of not more than twenty (20) years, or by both such fine and imprisonment.

Added by Laws 1955, p. 83, art. 9(B), § 16, emerg. eff. June 3, 1955. Amended by Laws 1997, c. 133, § 95, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 32, eff. July 1, 1999; Laws 2000, c. 243, § 95, emerg. eff. May 24, 2000.

NOTE: Laws 1997, c. 10, § 14 repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 95 from July 1, 1998, to July 1, 1999.

§2-9-37. Unlawful acts - Deposit of encumbered commodities without notice to warehouse - Procurement of receipts by false statement of material fact - Penalties.

Any person who deposits or attempts to deposit in a public warehouse any commodities upon which a lien or mortgage exists, without notifying the manager of the public warehouse, and any person who, in order to procure any warehouse receipt, knowingly makes any false statement of material fact shall, upon conviction, be guilty of a felony. The fine for a violation of this section shall not be more than Ten Thousand Dollars (\$10,000.00), or by imprisonment in the State Penitentiary for a period of not more than two (2) years, or by both such fine and imprisonment.

Added by Laws 1955, p. 83, art. 9(B), § 17, emerg. eff. June 3, 1955. Amended by Laws 1997, c. 133, § 96, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 33, eff. July 1, 1999; Laws 2000, c. 243, § 96, emerg. eff. May 24, 2000.

NOTE: Laws 1997, c. 10, § 15 repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 96 from July 1, 1998, to July 1, 1999.

§2-9-38. Rulemaking - Conformity with federal act.

A. The State Board of Agriculture shall promulgate rules necessary to carry out the provisions of the Public Warehouse and Commodity Indemnity Act.

B. The rules shall conform as nearly as practicable to the requirements of the United States Warehouse Act, as amended, its successor and any regulations developed thereunder.

Added by Laws 1955, p. 83, art. 9(B), § 18. Amended by Laws 1987, c. 125, § 11, emerg. eff. June 2, 1987; Laws 1997, c. 10, § 16, eff. July 1, 1997.

§2-9-39. Exemption.

The provisions of the Public Warehouse and Commodity Indemnity Act shall not apply to an individual producer-owner who does not receive from other producers commodities for storage, handling for storage, or both, but any qualified producer-owner may be issued a charter upon proper application.

Added by Laws 1955, p. 83, art. 9(B), §19. Amended by Laws 1987, c. 125, § 12, emerg. eff. June 2, 1987; Laws 1997, c. 10, § 17, eff. July 1, 1997; Laws 2000, c. 243, § 97, emerg. eff. May 24, 2000.

§2-9-42. Oklahoma Commodity Storage Indemnity Fund - Creation.

There is hereby created within the State Department of Agriculture, the "Oklahoma Commodity Storage Indemnity Fund".

Added by Laws 1980, c. 110, § 2, eff. July 1, 1980. Amended by Laws 1987, c. 125, § 13, emerg. eff. June 2, 1987; Laws 1997, c. 10, § 18, eff. July 1, 1997.

§2-9-44. Assessment upon commodities - Examination of records.

There is hereby assessed two (2) mills per bushel on all commodities delivered by producers to any public warehouse. The assessment shall be imposed on the warehouse at the time the commodity is received and shall be collected and remitted to the State Department of Agriculture by the warehouseman. Under the provisions of the Public Warehouse and Commodity Indemnity Act, no commodity shall be subject to a fee more than once. The State Board of Agriculture shall have authority to examine warehouse records to determine if the assessment has been properly remitted.

Added by Laws 1980, c. 110, § 4, eff. July 1, 1980. Amended by Laws 1981, c. 152, § 1, emerg. eff. May 8, 1981; Laws 1987, c. 125, § 14, emerg. eff. June 2, 1987; Laws 1988, c. 149, § 4, emerg. eff. May 2, 1988; Laws 1997, c. 10, § 19, eff. July 1, 1997; Laws 2000, c. 243, § 98, emerg. eff. May 24, 2000.

§2-9-45. Administration - Cessation of assessments - Claims for losses - Reimbursement of General Revenue Fund - Civil action claims.

A. The State Department of Agriculture shall administer the Oklahoma Commodity Storage Indemnity Fund. The Indemnity shall be established for the benefit of producers who have delivered commodities to a chartered or licensed public warehouse for storage. The Indemnity shall compensate producers for losses to their commodity while it is in the control of a chartered or licensed public warehouse, except losses covered by insurance as provided in Section 9-26 of this title. No producer shall be eligible for compensation or reimbursement as the result of a loss on any commodity when the title to the commodity has been transferred to the warehouseman.

B. When the Indemnity reaches Six Million Dollars (\$6,000,000.00), the two-mill assessment shall cease at the end of that harvest season as determined by the Board. If the balance of the Indemnity becomes less than Six Million Dollars (\$6,000,000.00), the two-mill assessment shall be reinstituted on an annual basis as necessary to attain a balance of Six Million Dollars (\$6,000,000.00) in the Indemnity. The Department shall have authority to invest the assessments. All proceeds of the investment shall be placed in the Indemnity. Fifty Thousand Dollars (\$50,000.00) from the interest income for each year on the total proceeds in the Indemnity shall be paid to the Department annually for the conducting of warehouse examinations necessary for the protection of the Indemnity. The balance of the accrued interest each year may not be utilized for any purposes not listed in this subarticle and shall remain a part of the Indemnity.

C. When a loss is incurred upon the commodity of a producer delivered to a warehouseman or after receipt of the notice pursuant to Section 9-24 of this title, the producer shall present his or her claim to the State Board of Agriculture. To verify the claim, the producer shall present a receipt or any additional evidence required by the Board. All producer claim payments shall be made by the Board from the Indemnity as soon as practicable and not later than one (1) year following the date of claim. The price per bushel of a commodity shall be established on the day of the loss or seizure and shall be for the full market value on that day less storage or other applicable charges. If there is an insufficient amount of cash in the Indemnity to cover all claims for a certain year, payments shall be made on a pro rata basis up to one hundred percent (100%) of the total loss of each producer. If payment is not received in the amount of one hundred percent (100%) of total loss for a certain year, then additional amounts shall be paid as funds become available in succeeding years until repayment of one hundred percent (100%) of total loss is attained. If, at any time, a producer receives payment totaling more than one hundred percent (100%) of total loss, the excess payment shall be returned to the Indemnity within thirty (30) days. Upon final payment of a claim to a producer from the

Indemnity, the producer shall subrogate his or her interest to the Department in a cause of action against any and all parties, to the amount of the loss that the producer was reimbursed by the Indemnity.

D. The producer shall, within sixty (60) days of the order of the Board establishing the date of loss, present the claim to the Board. Producers may submit a written request to the Board for a sixty-day extension of the filing period, if the producers can show they were not provided notification and reasonable time to file their claim. If the claim of loss is not presented within the time and in the manner required, the claim shall be forever barred and the producer shall forfeit all rights to remuneration or payment as provided in the Public Warehouse and Commodity Indemnity Act.

E. If state funds are appropriated to the Indemnity, the Board shall establish the rules and procedures necessary to ensure that the State General Revenue Fund shall be reimbursed from the assessments in an amount equal to the total appropriation made to the Indemnity. The reimbursement shall be made in a timely manner, provided the intents and purposes of this section to compensate producers for their losses shall not be adversely affected.

F. The monies deposited in the Indemnity shall at no time become part of the general budget of any state board, commission, or agency except the Department.

G. The Commissioner of the State Department of Agriculture shall investigate all potential civil action claims against a failed warehouse, the warehouseman, and any officers, directors and managers for recovery of any losses paid by the Indemnity.

Added by Laws 1980, c. 110, § 5, eff. July 1, 1980. Amended by Laws 1981, c. 152, § 2, emerg. eff. May 8, 1981; Laws 1986, c. 112, § 1, eff. July 1, 1986; Laws 1987, c. 125, § 15, emerg. eff. June 2, 1987; Laws 1990, c. 155, § 4, emerg. eff. May 1, 1990; Laws 1997, c. 10, § 20, eff. July 1, 1997; Laws 2001, c. 119, § 6, eff. Nov. 1, 2001.

§2-9-46. Reports - Penalties.

A. The warehouseman shall render and have on file a report with the State Board of Agriculture by the last day of the month following any calendar quarter in which the warehouseman has accepted ten thousand (10,000) or more bushels of a commodity. If less than ten thousand (10,000) bushels have been accepted in any calendar quarter, the assessment may be reported and remitted with the following quarter's return, except that all assessments collected shall be remitted at least once every six (6) months.

B. If any person subject to the assessment fails to make a report and remittance as required by law or rule, the Board shall determine the amount of the assessment according to its best judgment and information. The amount of assessment established by the Board shall be prima facie correct and the person failing to make the report shall have ten (10) calendar days after receipt of notice

mailed by the Board to pay the assessment, together with a penalty of five percent (5%) on the amount of the assessment. The person failing to report may dispute the assessment established by the Board and request a hearing to determine the amount of the assessment and penalty to be imposed. All assessment and penalty payments required following a hearing shall be made within ten (10) calendar days after receipt of notice of the Board order.

Added by Laws 1980, c. 110, § 6, eff. July 1, 1980. Amended by Laws 1986, c. 112, § 2, eff. July 1, 1986; Laws 1987, c. 125, § 16, emerg. eff. June 2, 1987; Laws 1997, c. 10, § 21, eff. July 1, 1997; Laws 2000, c. 243, § 99, emerg. eff. May 24, 2000.

§2-9-47. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-9-47.1. Violations - Penalties.

Except as provided by law, any person found to be in violation of any of the provisions of the Public Warehouse and Commodity Indemnity Act shall be guilty of a misdemeanor and shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) for the first offense and not less than One Thousand Dollars (\$1,000.00) for each subsequent offense.

Added by Laws 1990, c. 155, § 5, emerg. eff. May 1, 1990. Amended by Laws 1997, c. 10, § 23, eff. July 1, 1997; Laws 2000, c. 243, § 100, emerg. eff. May 24, 2000.

§2-9-130. Short title.

This act shall be known and may be cited as the "Livestock Auction Market Act".

Added by Laws 1991, c. 186, § 1, emerg. eff. May 13, 1991.

§2-9-131. Definitions.

For purposes of the Livestock Auction Market Act, "livestock auction market" means any established place where livestock is regularly offered for sale at public auction.

Added by Laws 1955, p. 92, art. 9(D), § 1. Amended by Laws 1961, p. 6, § 2; Laws 1980, c. 42, § 4, emerg. eff. March 26, 1980; Laws 1991, c. 186, § 2, emerg. eff. May 13, 1991; Laws 2000, c. 243, § 101, emerg. eff. May 24, 2000.

§2-9-132. License - Bond - Certificate of deposit or money market account - Nonrenewal or cancellation of bond - Violations - Penalties.

A. Except as provided by subsection C of this section, no person shall operate, conduct, or maintain a livestock auction market unless the person holds a livestock auction market license issued by the State Board of Agriculture and has:

1. Executed a corporate surety bond pursuant to the provisions of this section. The bond shall be conditioned upon the prompt and faithful accounting for all livestock received, handled, or sold, and the remittance of the proceeds from any sale, purchase, or exchange of any livestock to the consignor;

2. Opened a certificate of deposit account or a money market savings account. For a certificate of deposit account or a money market savings account to be eligible pursuant to the provisions of this section:

- a. the account shall be opened at a federally insured financial depository,
- b. an officer of the financial depository shall specifically acknowledge and guarantee the deposit of the funds required by subsection B of this section until otherwise released pursuant to this subsection,
- c. the person operating, conducting, or maintaining a livestock auction market may only withdraw funds deposited in a certificate of deposit account or a money market savings account sixty (60) days after the person has permanently ceased operations of the livestock auction market unless the person presents to the financial institution a written authorization for release of funds by the Oklahoma Department of Agriculture, Food, and Forestry; or

3. Provided other financial instruments allowable for livestock markets by the Federal Packers and Stockyards Act of 1921, as amended.

B. 1. The corporate surety bond or account required by subsection A of this section for any person operating, conducting, or maintaining a livestock auction market shall be in accordance with the provisions of the Federal Packers and Stockyards Act of 1921, as amended, but shall not be less than Twenty-five Thousand Dollars (\$25,000.00) for any person conducting less than twenty-five sales in any license year, or no single sale exceeds gross sales of Twenty-five Thousand Dollars (\$25,000.00).

2. For all other sales, the corporate surety bond or account required by subsection A of this section for any person operating, conducting, or maintaining a livestock auction market that does not meet the criteria in paragraph 1 of this subsection shall be in accordance with the provisions of the Federal Packers and Stockyards Act of 1921, as amended, but shall not be less than Fifty Thousand Dollars (\$50,000.00) unless the Department approves a lesser amount pursuant to rules promulgated by the State Board of Agriculture.

C. The corporate surety bond or account required by subsection A of this section shall not be required of any person who has executed and maintained a corporate surety bond or account pursuant to the provisions of subsection B of this section to secure the performance

of obligations under the provisions of the Federal Packers and Stockyards Act of 1921, as amended.

D. The Commissioner of Agriculture is authorized to be designated as trustee for any corporate surety bond, certificate of deposit account, money market savings account, or any other financial instruments allowable for livestock markets by the Federal Packers and Stockyards Act of 1921, as amended.

E. 1. Any corporate surety company issuing a bond to any person as specified by subsection A or C of this section for operating, conducting, or maintaining a livestock auction market shall notify the Board in writing not less than thirty (30) days prior to the cancellation or nonrenewal of the bond.

2. The Board shall provide for the publication of notice to the public of the nonrenewal or cancellation of the bond for a livestock auction market upon any notification that the bond of the livestock auction market has been nonrenewed or canceled and no new bond has been obtained.

3. No person shall knowingly operate, conduct, or maintain a livestock auction market without having a bond as specified by this section. Any person convicted of violating the provisions of this paragraph shall be guilty of a felony.

F. All records relating to the prompt and faithful accounting for all livestock received, handled, or sold and the remittance of the proceeds from any sale, purchase, or exchange of any livestock to the consignor shall be in accordance with the provisions of the Federal Packers and Stockyards Act of 1921, as amended. The Board shall audit such records at least once a year. Any violation of the standards of the Federal Packers and Stockyards Act may result in the suspension of the livestock auction market license.

G. Except as provided by this section, any person found to be in violation of the provisions of this section, upon conviction, shall be guilty of a misdemeanor.

Added by Laws 1955, p. 92, art. 9(D), § 2, emerg. eff. June 3, 1955. Amended by Laws 1961, p. 6, § 2, emerg. eff. Feb. 27, 1961; Laws 1965, c. 178, § 1; Laws 1981, c. 5, § 1, eff. Oct. 1, 1981; Laws 1986, c. 309, § 11, operative July 1, 1986; Laws 1991, c. 186, § 4, emerg. eff. May 13, 1991; Laws 1996, c. 185, § 1, eff. Nov. 1, 1996; Laws 1997, c. 133, § 97, eff. July 1, 1999; Laws 2000, c. 243, § 102, emerg. eff. May 24, 2000; Laws 2009, c. 324, § 1, eff. Nov. 1, 2009. NOTE: Laws 1998, 1st Ex. Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 97 from July 1, 1998, to July 1, 1999.

§2-9-132.1. Bonds - Issuers - Certification as solvent.

Any bond or corporate surety bond involved in any section of the Livestock Auction Market Act, shall be issued by a corporation or insurance company, certified as being solvent by the State Insurance

Commissioner or certified by the United States Department of Agriculture, pursuant to the Federal Packers and Stockyards Act. Added by Laws 1991, c. 186, § 3, emerg. eff. May 13, 1991. Amended by Laws 2000, c. 243, § 103, emerg. eff. May 24, 2000.

§2-9-133. Licenses - Rules.

A. Every application for a livestock auction market license shall be on a form prescribed by the State Board of Agriculture. Each license shall expire at a time specified by the Board by rule. A fee of Twenty-five Dollars (\$25.00) shall be charged and collected for the issuance or renewal of the license. Any license may be denied, revoked, suspended, or not renewed by the Board, after due notice in writing and an opportunity to be heard has been given to the holder, upon:

1. The failure of the holder to comply with the corporate surety bond or account requirements; or

2. The failure of the licensee to comply with any of the provisions of Section 6-102 of this title, the Livestock Auction Market Act, or any rule promulgated thereto.

B. The Board shall promulgate rules to effectuate the provisions of this section. The rules may include, but not be limited to, requiring:

1. The submission of financial documents;

2. The disclosure of all persons having a financial interest in the applicant and the amount and nature of the interest;

3. Proof that the applicant meets registration requirements of the Federal Packers and Stockyards Act of 1921, as amended; and

4. The submission of any other information reasonably calculated to enable the Board to make the determination required by this section.

C. The Board shall provide for the publication of notice to the public of the suspension or revocation of the livestock auction market license.

Added by Laws 1955, p. 92, art. 9(D), § 3, emerg. eff. June 3, 1955. Amended by Laws 1961, p. 6, § 2; Laws 1976, c. 107, § 3, emerg. eff. May 12, 1976; Laws 1991, c. 186, § 5, emerg. eff. May 13, 1991; Laws 1996, c. 185, § 2, eff. Nov. 1, 1996; Laws 2000, c. 243, § 104, emerg. eff. May 24, 2000.

§2-9-134. Records.

A. Every person operating or conducting a livestock auction market shall make, and keep for two (2) years, a record showing an identifying description, vehicle license tag number, and the names and addresses of the buyer and seller of livestock consigned for sale at livestock auction markets. The records shall be open to inspection during reasonable business hours by any authorized agent employed by the State Board of Agriculture.

B. Any records required to be kept pursuant to subsection A of this section may not be removed from the premises by an authorized agent without the express authority of the person who has jurisdiction over the records or except as authorized by a court of law. These records may be photocopied at the request of the agent. Added by Laws 1955, p. 92, art. 9(D), § 4, emerg. eff. June 3, 1955. Amended by Laws 1961, p. 6, § 2; Laws 1963, c. 170, § 1; Laws 1965, c. 148, § 1, emerg. eff. May 24, 1965; Laws 1991, c. 186, § 6, emerg. eff. May 13, 1991; Laws 1996, c. 185, § 4, eff. Nov. 1, 1996; Laws 2000, c. 243, § 105, emerg. eff. May 24, 2000.

§2-9-134.1. Custodial account defaults - Board taking possession of assets - Distribution.

A. Upon the suspension or revocation of any livestock auction market license as a result of a custodial account default, the Board shall have the authority to take possession of any and all assets which belong to the custodial account for shippers' proceeds, including, but not limited to, custodial account checking or savings accounts, custodial account certificates of deposit, receivables and livestock for which the custodial account has not been reimbursed or any other assets which belong to the custodial account as determined by the Board.

B. Assets taken into possession shall be limited to custodial account assets as determined by the State Board of Agriculture. All funds collected from custodial account assets shall be placed in an account of the Department of Agriculture specifically designated as a shippers' proceeds trust fund.

C. The Board shall have the authority to receive, deposit and administer all proceeds belonging to the custodial account for shippers' proceeds of any livestock auction market whose license has been suspended or revoked.

D. Upon taking possession of any such assets specified by this section, the Board shall distribute the assets as follows:

1. The Board shall receive an amount equal to the cost incurred by the Board in handling and maintenance of the trust fund of shippers' proceeds, including cost of hauling, yardage, watering, feeding, commissions and other costs in the marketing or handling of any livestock taken into possession; and

2. All remaining funds shall be proportioned among all persons submitting valid claims as determined by the Board.

Added by Laws 1996, c. 185, § 5, eff. Nov. 1, 1996.

§2-9-135. Inspection of scales - Use of inaccurate scales.

A. The State Board of Agriculture shall cause a periodic inspection to be made of all scales used at any livestock auction market. All scales used at any livestock auction market shall have an automatic stamping device to print the weight on a card, paper, or

ticket and furnished to interested parties in connection with the weighing of any livestock handled at the livestock auction market.

B. No person shall use any scales found to be inaccurate until the scales have been made accurate and have been approved by the Board.

Added by Laws 1955, p. 92, art. 9(D), § 5. Amended by Laws 1957, p. 9, § 1; Laws 1961, p. 6, § 2; Laws 1991, c. 186, § 7, emerg. eff. May 13, 1991; Laws 2000, c. 243, § 106, emerg. eff. May 24, 2000.

§2-9-136. Buying of livestock prior to consignment - Fraudulent sale of livestock.

A. No person shall buy or offer to buy livestock on the premises owned and used by a person operating a livestock auction market before the livestock has been regularly consigned for sale.

B. No person, with the intent to defraud, shall offer for sale any livestock at a livestock auction market in any name other than that of the seller. Any person, with the intent to defraud, who attempts to sell or sells livestock under a false name or a name other than that of the seller shall be guilty of a misdemeanor.

C. No person shall offer for sale any livestock at a livestock auction market with the intent to defraud. For the purposes of this subsection, it shall be considered an attempt by the seller to defraud if livestock identified previously for sale are not the same livestock offered or sold at a livestock market auction. Any person convicted of violating the provisions of this subsection shall be guilty of a misdemeanor.

Added by Laws 1955, p. 92, art. 9(D), § 6, emerg. eff. June 3, 1955. Amended by Laws 1961, p. 6, § 2, emerg. eff. Feb. 27, 1961; Laws 1991, c. 186, § 8, emerg. eff. May 13, 1991; Laws 2000, c. 243, § 107, emerg. eff. May 24, 2000; Laws 2009, c. 153, § 1, eff. Nov. 1, 2009.

§2-9-137. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-9-138. Definitions.

As used in the Livestock Auction Market Act:

1. "Exotic animals" means commercially raised animals of the families bovidae, cervidae, antilocapridae, suidae, and ratites;

2. "Livestock" means cattle, swine, sheep, horses, mules, or goats and includes exotic animals;

3. "Payment by check" means the actual delivery of the check to the seller or representative at the location where the transfer of ownership is accomplished. In the case of grade and yield selling, payment by check means making the check available at the packing plant, subject to the instructions of the seller or representative;

4. "Slaughter" means killing livestock with the intent to process and distribute the meat and offal of the livestock, regardless of the period of time elapsing between the purchase and the killing of the livestock; and

5. "Wire transfer" means any telephonic, telegraphic, electronic, or similar communication between the financial institution or bank of the purchaser and the financial institution or bank of the seller which results in the transfer of funds or credit of the purchaser to an account of the seller.

Added by Laws 1975, c. 313, § 1, emerg. eff. June 7, 1975. Amended by Laws 1996, c. 185, § 3, eff. Nov. 1, 1996; Laws 2000, c. 243, § 108, emerg. eff. May 24, 2000.

§2-9-139. Payment for purchases of livestock for slaughter.

A. 1. Unless agreed to in writing between the owner and the purchaser, the agent, or representative of the purchaser for each transaction, it shall be unlawful for any person who purchases livestock for slaughter, whether acting individually, as agent, or representative of another, to fail or refuse to make payment by negotiable check or wire transfer of funds to the owner, or the representative, agent, or assignee of the owner for the livestock on the business day within which the ownership of the livestock is transferred within the State of Oklahoma.

2. If the transfer of ownership is accomplished after normal banking hours, the payment shall be made in the manner provided not later than the close of the first business day following the transfer of ownership.

3. For the purposes of this section, if livestock is sold and purchased on a grade and yield basis, the transfer of ownership shall be deemed to have occurred on the day when the grade and yield is determined.

B. Payment for livestock purchased for slaughter shall be made by negotiable check or wire transfer of funds and shall be drawn on a banking institution within the Federal Reserve District where the transaction takes place, unless agreed to in writing between the owner and the purchaser or the agent, or representative of the purchaser.

Added by Laws 1975, c. 313, § 2, emerg. eff. June 7, 1975. Amended by Laws 2000, c. 243, § 109, emerg. eff. May 24, 2000.

§2-9-141. Repealed by Laws 2010, c. 239, § 2, eff. Nov. 1, 2010.

§2-9-142. Repealed by Laws 2010, c. 239, § 2, eff. Nov. 1, 2010.

§2-9-143. Records - Access - Inspection of livestock.

A. Every livestock dealer shall maintain written records as required by the Federal Packers and Stockyards Act of 1921, as

amended, and any other written records that are necessary and adequate to determine the sources and disposition of livestock that are, or have been, in the dealer's possession within the previous twenty-four (24) months.

B. The State Board of Agriculture shall have access to examine the records of all livestock dealers within reasonable working hours.

C. The Oklahoma Department of Agriculture, Food, and Forestry may enter and inspect a livestock facility or examine the records of a livestock dealer.

Added by Laws 1976, c. 49, § 2, emerg. eff. April 9, 1976. Amended by Laws 1996, c. 185, § 8, eff. Nov. 1, 1996; Laws 2001, c. 146, § 95, emerg. eff. April 30, 2001. Renumbered from § 1752 of this title by Laws 2001, c. 146, § 256, emerg. eff. April 30, 2001. Amended by Laws 2010, c. 239, § 1, eff. Nov. 1, 2010.

§2-9-144. Repealed by Laws 2010, c. 239, § 2, eff. Nov. 1, 2010.

§2-9-145. Repealed by Laws 2010, c. 239, § 2, eff. Nov. 1, 2010.

§2-9-146. Repealed by Laws 2010, c. 239, § 2, eff. Nov. 1, 2010.

§2-9-147. Repealed by Laws 2010, c. 239, § 2, eff. Nov. 1, 2010.

§2-9-151. Renumbered as § 5-2.1 of this title by Laws 2001, c. 146, § 265, emerg. eff. April 30, 2001.

§2-9-160. Short title.

The provisions of this act shall be known and may be cited as the "Competitive Livestock Markets Act".

Added by Laws 2001, c. 400, § 1, eff. Nov. 1, 2001.

§2-9-161. Packer - Definition.

As used in the Competitive Livestock Markets Act, "packer" means any person:

1. Engaged in the business of buying more than five thousand (5,000) animal units of livestock per year in commerce for purpose of slaughter;

2. Manufacturing or preparing meats or meat food products for sale of shipment in commerce; or

3. Marketing meats, meat food products or livestock products in an unmanufactured form acting as a wholesale broker, dealer or distributor.

Added by Laws 2001, c. 400, § 2, eff. Nov. 1, 2001.

§2-9-162. Packer prohibitions.

It shall be unlawful for any packer with respect to livestock, meats, meat products or livestock products in unmanufactured form to:

1. Engage in or use any unfair, unjustly discriminatory or deceptive practice or device;

2. Sell or otherwise transfer to or for any other packer or buy or otherwise receive from or for any other packer any article for the purpose or with the effect of apportioning the supply between any such persons if such apportionment has the tendency or effect of restraining commerce or of creating a monopoly;

3. Sell or otherwise transfer to or for any other person, or buy or otherwise receive from or for any other person, any article for the purpose or with the effect of manipulating or controlling prices, or of creating a monopoly in the acquisition of buying, selling or dealing in any article, or of restraining commerce;

4. Engage in any course of business or do any act for the purpose of or with the effect of manipulating or controlling prices, or of creating a monopoly in the acquisition of buying, selling, dealing in any article or of restraining commerce;

5. Conspire, combine, agree or arrange with any other person to apportion territory for carrying on business, to apportion purchases of any article or to manipulate or control prices; or

6. Conspire, combine, agree or arrange with any other person to aid or abet the doing of any act made unlawful by paragraph 1, 2, 3 or 4 of this section.

Added by Laws 2001, c. 400, § 3, eff. Nov. 1, 2001.

§2-9-163. Declaratory judgment - Restraining order - Actions.

A. Any person who has incurred damages as a result of the Competitive Livestock Markets Act may bring an action to:

1. Obtain a declaratory judgment that an act or practice violates the Competitive Livestock Markets Act; or

2. Enjoin or obtain a restraining order against a packer who is violating the Competitive Livestock Markets Act.

B. A person who suffers damages as a result of a violation of the Competitive Livestock Markets Act may bring an individual or a class action for the damages caused by any violation of the Competitive Livestock Markets Act together with reasonable attorney fees, against the party or parties whose conduct is the proximate cause of such damages.

Added by Laws 2001, c. 400, § 4, eff. Nov. 1, 2001.

§2-9-164. Accounts, records and memoranda.

Every packer shall keep such accounts, records and memoranda as necessary to fully and correctly disclose all transactions involved in such person's business, including the true ownership of the business by stockholding or otherwise.

Added by Laws 2001, c. 400, § 5, eff. Nov. 1, 2001.

§2-9-200. Renumbered as § 20-1 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-201. Renumbered as § 20-2 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-202. Renumbered as § 20-3 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-203. Renumbered as § 20-4 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-203.1. Renumbered as § 1085.30a of Title 82 by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-204. Renumbered as § 20-5 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-204.1. Renumbered as § 20-6 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-205. Renumbered as § 20-7 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-205.1. Renumbered as § 20-8 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-205.2. Renumbered as § 20-9 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-205.3. Renumbered as § 20-10 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-205.3a. Renumbered as § 20-11 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-205.4. Renumbered as § 20-12 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-205.5. Renumbered as § 20-13 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-206. Renumbered as § 20-14 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-207. Repealed by Laws 1997, c. 331, § 24, eff. Sept. 1, 1997.

§2-9-208. Renumbered as § 20-15 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-209. Renumbered as § 20-16 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-209.1. Renumbered as § 20-17 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-210. Renumbered as § 20-18 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-210.1. Renumbered as § 20-19 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-210.2. Renumbered as § 20-20 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-210.3. Renumbered as § 20-21 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-211. Renumbered as § 20-25 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-212. Renumbered as § 20-26 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-212.1. Renumbered as § 20-27 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-214. Renumbered as § 20-28 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-9-215. Renumbered as § 20-29 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-10-1. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-10-2. Board as official state agency.

The State Board of Agriculture shall be the official state agency in all matters related to the health of birds, hatching eggs, and in the administration of the National Poultry Improvement Plan.

Added by Laws 1955, p. 93, art. 10(A), § 2. Amended by Laws 2000, c. 367, § 125, emerg. eff. June 6, 2000.

§2-10-9. Acceptance or approval of pending poultry feeding operation applications - Prohibition within certain distance upstream from Pensacola Project boundary.

The Oklahoma Department of Agriculture, Food, and Forestry shall not accept or approve any pending applications requesting permits for registration, construction or expansion of any poultry feeding operation, as defined in Section 10-9.1 of this title, to be located within one (1) mile upstream of the Pensacola Project boundary as described in the records of the Grand River Dam Authority and the Federal Emergency Management Agency. Any such operation authorized or permitted prior to April 17, 2002, shall not be affected by the provisions of this section.

Added by Laws 2002, c. 94, § 2, emerg. eff. April 17, 2002. Amended by Laws 2005, c. 292, § 24, eff. July 1, 2005.

§2-10-9.1. Short title - Oklahoma Registered Poultry Feeding Operations Act - Definitions.

A. Sections 10-9.1 through 10-9.12 of this title shall be known and may be cited as the "Oklahoma Registered Poultry Feeding Operations Act".

B. As used in Sections 10-9.1 through 10-9.23 of this title:

1. "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices which prevent or reduce the pollution of waters of the state as established by the Oklahoma Department of Agriculture, Food, and Forestry pursuant to Section 10-9.7 of this title;

2. "Board" means the State Board of Agriculture;

3. "Certificate" means a written document issued to an individual by the Board pursuant to Section 10-9.17 of this title which indicates that the individual is authorized to land-apply poultry waste by the Oklahoma Poultry Waste Applicators Certification Act;

4. "Certified poultry waste applicator" means a person who has been certified by the Board to land-apply poultry waste and includes a commercial poultry waste applicator and a private poultry waste applicator;

5. "Commercial poultry waste applicator" means any person who engages in commercial land-application of poultry waste. Any farmer while working for a neighbor in agricultural production, and not advertising, nor holding himself or herself out to be in the business of land-applying poultry waste, shall not be classified as a commercial poultry waste applicator, but as a private poultry waste applicator;

6. "Contract growing arrangement" means any growout contract, marketing agreement, or other arrangement under which a contract poultry grower cares for or raises poultry;

7. "Contract poultry grower" means any person engaged in the business of caring for or raising poultry, under a contract growing arrangement;

8. "Common ownership" includes but is not limited to any person who has power or authority to manage, direct, restrict, regulate or oversee the operation or has financial control of two or more poultry feeding operations;

9. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry;

10. "Expanding operation" means a registered poultry feeding operation that seeks to increase its registered capacity in excess of ten percent (10%) of the facility's original registered capacity;

11. "Facility" means any place, site or location or part thereof where poultry are kept, handled, housed or otherwise maintained including but not limited to buildings, lots, pens, and poultry waste management systems;

12. "Integrator" means an entity which unites the elements associated with the poultry industry, including but not limited to hatching, feeding, processing, and marketing. It includes, but is not limited to, situations when growing is contracted out to others and when the integrator operates its own growing facilities;

13. "Land-application" means the spreading on, or incorporation into, the soil mantle primarily for beneficial purposes;

14. "Nutrient Management Plan" means a written plan that includes a combination of conservation and management practices designed to protect the natural resources of the state as required by the Oklahoma Department of Agriculture, Food, and Forestry pursuant to the provisions of Section 10-9.7 of this title and shall also include a certified nutrient management plan and animal waste management plan;

15. "Operator" means the person who performs the daily management functions associated with the poultry feeding operation;

16. "Person" means an individual, association, partnership, firm, company, public trust, corporation, joint stock company, trust estate, any other legal entity, or any agent, employee, representative assignor or successor thereof;

17. "Nutrient-limited watershed" means a watershed of a water body which is designated as "nutrient-limited" in the most recent Oklahoma Water Quality Standards;

18. "Nutrient-vulnerable groundwater" means groundwater which is designated "nutrient-vulnerable" in the most recent Oklahoma Water Quality Standards;

19. "Poultry" includes chickens, turkeys, ducks, geese, and any other domesticated bird used for human food and/or animal feed;

20. "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;

21. "Poultry waste" means poultry excrement, poultry carcasses, feed wastes, bedding materials, or any other waste associated with the confinement of poultry from a poultry feeding operation;

22. "Poultry waste management system" means a combination of structures and practices serving a poultry feeding operation that provides for the collection, treatment, disposal, distribution, storage, and land-application of poultry waste;

23. "Private poultry waste applicator" means any person who is not a commercial poultry waste applicator but engages in the land application of poultry waste for purposes including, but not limited to, producing any agricultural commodity on property owned or rented by the person or such person's employer, or if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person;

24. "Waste facility" means any structure or combination of structures utilized to control poultry waste until it can be utilized in an authorized manner; and

25. "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. Process wastewaters shall not be considered as waters of the state if contaminated at the site.

Added by Laws 1998, c. 232, § 1, eff. July 1, 1998. Amended by Laws 2012, c. 79, § 1, eff. Nov. 1, 2012; Laws 2015, c. 313, § 1, eff. July 1, 2015.

§2-10-9.2. Repealed by Laws 2013, c. 118, § 25, eff. Nov. 1, 2013.

§2-10-9.3. Registration.

A. 1. It shall be unlawful for any person to construct or operate a new poultry feeding operation without having first registered with the State Board of Agriculture.

2. The owner or operator of a poultry operation not classified as a poultry feeding operation may register if such owner or operator

elects to come under the provisions of the Oklahoma Registered Poultry Feeding Operations Act and the rules of the Board.

B. 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.

Added by Laws 1998, c. 232, § 3, eff. July 1, 1998. Amended by Laws 2015, c. 313, § 2, eff. July 1, 2015.

§2-10-9.4. Poultry operations under common ownership - Registration upon waste exceeding certain limit - Reregistration upon certain increase in waste.

A. Every poultry feeding operation shall be required to register annually to operate pursuant to the Oklahoma Registered Poultry Feeding Operations Act and rules promulgated pursuant thereto.

B. 1. Two or more poultry operations under common ownership are considered, for the purposes of registration, to be a single poultry feeding operation if they adjoin each other or if they use a common waste facility.

2. Once the cumulative amount of poultry waste produced by all facilities owned or managed by a person meets or exceeds the amount specified by paragraph 20 of Section 10-9.1 of this title, all poultry feeding operations owned by the person shall be required to become registered.

3. After the effective date of this act, any poultry feeding operation shall be required to reregister for any increase in excess of ten percent (10%) of the facility's original registered capacity. Added by Laws 1998, c. 232, § 4, eff. July 1, 1998. Amended by Laws 2015, c. 313, § 3, eff. July 1, 2015.

§2-10-9.5. Necessary forms and applications - Registration information and records required - False statements, etc. - Penalty - Notice upon changing integrators - Waste management educational training.

A. The State Board of Agriculture shall provide the necessary forms and applications for any person desiring or required to register a poultry feeding operation or expanding operation.

B. The application to register to operate a new or previously unregistered poultry feeding operation or expanding operation shall contain, at a minimum, the following information:

1. Name and address of the owner and operator of the facility;
2. Name and address of the poultry feeding operation;
3. Number and type of poultry housed or confined;
4. Name and address of the integrator whose poultry will be raised by the poultry feeding operation;

5. A diagram or map and legal description showing geographical location of the facility on which the perimeters of the facility are

designated, location of waters of the state, including, but not limited to, drainage from the facility, poultry waste storage facilities, and land-application sites owned or leased by the applicant or which the applicant has contracted with for the application of poultry waste;

6. A copy of the Nutrient Management Plan, or proof of application for such plan, Best Management Practices or any other plans authorized by the Oklahoma Department of Agriculture, Food, and Forestry;

7. A statement of ownership.

- a. If the applicant is a corporation, the name and address of the corporation and the name and address of each officer and registered agent of the corporation shall be included in the application.
- b. If the applicant is a partnership or other legal entity, the name and address of each partner and stockholder with an ownership interest of ten percent (10%) or more shall be included in the statement.
- c. The information contained in the statement of ownership shall be public information and shall be available upon request from the Board;

8. The name and address of the person having day-to-day control of the operation, if such person is not the applicant and is acting as agent for the applicant;

9. An environmental history from the past three (3) years of any poultry feeding operation established and operated by the applicant or any other operation with common ownership in this state or any other state;

10. Environmental awards or citations received or pollution prevention or voluntary remediation efforts undertaken by the applicant; and

11. Any other information or records required by the Department for purposes of implementing the Oklahoma Registered Poultry Feeding Operations Act or rules promulgated pursuant thereto.

C. In addition to other penalties as may be imposed by law, any person who knowingly makes any false statement, representation, or certification in, omits material data from, or tampers with any application for registration shall, upon conviction, be guilty of a misdemeanor and may be subject to a fine of not more than Ten Thousand Dollars (\$10,000.00) for each such violation.

D. The owner of a poultry feeding operation shall be responsible for sending written notification to the Department upon changing integrators.

E. For a transfer of registration to a new owner, the new owner shall register the operation pursuant to the rules of the Department.

F. 1. All operators of poultry feeding operations and poultry waste applicators shall attend educational courses on poultry waste

handling. All such operators and applicators shall attend educational training on poultry waste management as provided by Oklahoma State University through the Oklahoma Cooperative Extension Service. All current and new operators and applicators shall receive the initial nine (9) hours of training in the first year and two (2) hours of continuing education every year until the operator or applicator has received a total of nineteen (19) hours of training. Any operator or applicator may attend more hours than is required, however, those hours shall not be carried forward. Upon receiving the nineteen (19) required hours, the operator or applicator shall be required to receive two (2) hours of continuing education every three (3) years. The Oklahoma Cooperative Extension Service shall develop the educational training course to aid in certification. Curricula for the training course will include the Oklahoma Cooperative Extension Service Waste Management Facts series and record books or their current equivalent. Courses for poultry waste management shall include the following topics:

- a. environmental process relevant to protecting water quality in poultry production,
- b. basic handling systems to manage poultry waste from all types of poultry operations,
- c. nutrient management, including sampling procedures, application rate determination, equipment calibration, and record-keeping systems,
- d. relevant laws and rules applicable to poultry waste management in the State of Oklahoma, and
- e. any other related subject as determined by Oklahoma State University in consultation with the Department.

2. At the completion of each course, the operator or applicator shall receive a certification verifying completion. The certificates shall be kept on site for five (5) years.

3. Failure to obtain the initial nine-hour training and any continuing education as provided in this subsection shall be deemed a violation of the Oklahoma Registered Poultry Feeding Operations Act for operators and the Oklahoma Poultry Waste Applicators Certification Act for applicators.

4. All operators or applicators shall meet the educational requirements of this section no later than December 31 of each year.

G. No integrator shall enter into any contract with an operator of a poultry feeding operation who is not in compliance with the education requirements of subsection F of this section.

Added by Laws 1998, c. 232, § 5, eff. July 1, 1998. Amended by Laws 2005, c. 412, § 1, eff. Nov. 1, 2005; Laws 2011, c. 55, § 1, eff. Jan. 1, 2012; Laws 2015, c. 313, § 4, eff. July 1, 2015; Laws 2016, c. 228, § 3, eff. Nov. 1, 2016.

§2-10-9.6. Poultry Waste Education Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Agriculture, Food, and Forestry to be designated the "Poultry Waste Education Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies donated to the fund, and any other monies deposited in the fund pursuant to law.

B. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Department of Agriculture, Food, and Forestry to contract with Oklahoma State University to provide the educational courses required by the Oklahoma Poultry Waste Applicators Certification Act.

C. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1998, c. 232, § 6, eff. July 1, 1998. Amended by Laws 2012, c. 304, § 8.

§2-10-9.7. Utilization of Best Management Practices - Nutrient management plans - Soil testing - Carcass disposal plan.

A. All poultry feeding operations shall utilize Best Management Practices and shall meet the conditions and requirements established by subsection B of this section and by rules promulgated by the State Board of Agriculture pursuant to the Oklahoma Registered Poultry Feeding Operations Act.

B. The criteria for Best Management Practices shall be promulgated by rules by the Board and shall include, but not be limited to, the following:

1. There shall be no discharge of poultry waste to waters of the state;

2. Stored poultry waste shall be isolated from outside surface drainage by covers, ditches, dikes, berms, terraces or other such structures;

3. No waters of the state shall come into direct contact with the poultry confined on the poultry feeding operation;

4. Poultry waste handling, treatment, management, and removal shall:

- a. not create an environmental or a public health hazard,
- b. not result in the contamination of waters of the state, and
- c. conform to such other handling, treatment and management and removal requirements deemed necessary by the Oklahoma Department of Agriculture, Food, and Forestry to implement the Oklahoma Registered Poultry Feeding Operations Act and rules promulgated pursuant thereto.

The rules promulgated by the Board pursuant to this section shall provide for exceptions to the storage requirements for poultry waste in emergency situations. Such 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. In such situations growers shall be required to take all actions feasible to prevent pollution from stored poultry waste.

C. Every poultry feeding operation shall have a Nutrient Management Plan which shall include at a minimum:

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, for soil and poultry waste testing;

4. Legal description of lands to be used by an operation for land-application;

5. Land-application rates of poultry waste shall be based on the available nitrogen and phosphorous content of the poultry waste and shall provide controls for runoff and erosion as appropriate for site conditions;

6. The procedures documented in the Nutrient Management Plan shall ensure that the handling and utilization of poultry waste complies with the following requirements:

- a. adequate poultry waste storage shall be provided consistent with rules promulgated by the Oklahoma Department of Agriculture, Food, and Forestry pursuant to subsection B of this section,
- 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 except in conformance with the Nutrient Management Plan,
- c. poultry waste shall only be applied to suitable land at appropriate times and rates. Discharge or runoff of waste from the application site is prohibited. Timing and rate of applications shall be based on assimilation capacity of the soil profile, assuming usual nutrient losses, expected precipitation, and soil conditions, and
- d. poultry waste application shall be prohibited on land subject to excessive erosion;

7. Records shall be maintained of all poultry wastes applied on land owned or controlled by the operator, and sold or given to other persons:

- a. if the poultry waste is sold or given to other persons for land application or other use, the poultry feeding

operation shall maintain a log of: date of removal from the poultry feeding operation; name of recipient the poultry waste is sold or given to; and amount in wet tons, dry tons or cubic yards of poultry waste removed from the poultry feeding operation, and

- b. the poultry feeding operation shall make available to the recipient any nutrient sample analysis from that year;

8. Any analysis required by the provisions of the Oklahoma Registered Poultry Feeding Operations Act or rules promulgated thereto shall be performed by a qualified environmental testing laboratory certified by the Department of Environmental Quality and approved by the Oklahoma Department of Agriculture, Food, and Forestry; and

9. Such other information deemed necessary by the Oklahoma Department of Agriculture, Food, and Forestry to administer the provisions of the Oklahoma Registered Poultry Feeding Operations Act and rules promulgated pursuant thereto.

D. The Oklahoma Department of Agriculture, Food, and Forestry may promulgate rules providing voluntary fees charged to registered poultry feeding operations for the development and writing of Nutrient Management Plans;

E. Every poultry feeding operation located in a non-nutrient-limited watershed and non-nutrient-vulnerable groundwaters shall perform soil testing on each land-application area and poultry waste testing at least once every three (3) years to determine:

1. Soil pH and plant-available nutrients including, at a minimum, nitrogen, phosphorous and potassium;
2. Poultry waste nutrient concentrations and moisture; and
3. Application rate based upon current United States Department of Agriculture Natural Resources Conservation Service Waste Utilization Standards, unless the Oklahoma Department of Agriculture, Food, and Forestry approves other standards.

F. Every poultry feeding operation located in a nutrient-limited watershed and nutrient-vulnerable groundwater shall perform an annual soil test on each land-application area prior to the first application of the calendar year. Poultry waste testing shall be performed annually prior to the first application of the calendar year. Soil and poultry waste testing shall be performed to determine:

1. Soil pH and plant-available nutrients including at least nitrogen, phosphorous and potassium;
2. Poultry waste nutrient concentrations and moisture; and
3. Application rate based upon current United States Department of Agriculture Natural Resources Conservation Service Waste Utilization Standards, unless the Oklahoma Department of Agriculture, Food, and Forestry approves other standards.

G. 1. Soil and poultry waste analysis data shall be retained by the poultry feeding operation for a minimum of six (6) years.

2. All soil and poultry waste analysis data shall be dated prior to land application.

H. 1. Poultry feeding operations shall develop a plan for the disposal of carcasses associated with normal mortality.

2. In the event there is an outbreak of a major disease or other emergency resulting in deaths significantly higher than normal mortality rates, the Oklahoma Department of Agriculture, Food, and Forestry may approve, in writing, an alternate method of disposal of carcasses or the storage of poultry waste during the emergency period.

I. 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. The report shall contain the following information:

1. The date and amount of poultry waste removed from or land-applied at the facility;

2. The type of poultry waste removed or land-applied, whether a cake out, full clean out, in-house windrow or compost, poultry waste stack shed, or other type;

3. The county and, if applicable, the name of the Nutrient Limited Watershed where the poultry waste was produced; and

4. The location where the poultry waste is removed to:

a. if land-applied on site, provide the following:

(1) the date of the land-application,

(2) the total amount of poultry waste land-applied in wet tons, dry tons, or cubic yards,

(3) the name, mailing address, and telephone number of the poultry waste applicator, and

(4) the number of acres under the control of the poultry feeding operation for land-application of poultry waste, or

b. if removed off site, provide the following:

(1) the date of the removal off site,

(2) the amount of poultry waste removed in wet tons, dry tons, or cubic yards,

(3) the name, mailing address, and telephone number of the person the poultry waste is sold or transferred to,

(4) the name, mailing address, telephone number, and poultry waste applicator license number of the poultry waste applicator, if known, and

(5) the name, mailing address, and telephone number of the hauler of the poultry waste.

Added by Laws 1998, c. 232, § 7, eff. July 1, 1998. Amended by Laws 2012, c. 79, § 2, eff. Nov. 1, 2012; Laws 2015, c. 313, § 5, eff. July 1, 2015.

§2-10-9.8. Registration fee.

Every application shall be accompanied by an annual registration fee of Ten Dollars (\$10.00), which is nonrefundable. All such fees shall be deposited in the Agriculture Regulation Revolving Fund created in Section 10-9.24 of this title to be used for the purpose of implementing the provisions of the Oklahoma Registered Poultry Feeding Operations Act and the Oklahoma Poultry Waste Applicators Certification Act.

Added by Laws 1998, c. 232, § 8, eff. July 1, 1998. Amended by Laws 2015, c. 313, § 6, eff. July 1, 2015.

§2-10-9.8a. New or expanded poultry feeding operations - Construction in certain areas prohibited.

On and after the effective date of this act:

1. No new or expanding poultry feeding operations, operated by entities prohibited in Section 951 of Title 18 of the Oklahoma Statutes including but not limited to entities operating as prescribed by Section 954 of Title 18 of the Oklahoma Statutes, shall be constructed within a one-hundred-year flood plain; and

2. No new or expanding poultry feeding operations, operated by entities prohibited in Section 951 of Title 18 of the Oklahoma Statutes including but not limited to entities operating as prescribed by Section 954 of Title 18 of the Oklahoma Statutes, shall be constructed within the following minimum buffer areas:

- a. one and one-half (1 1/2) miles of the high water mark of a surface public water supply if the poultry feeding operation is located within the watershed for the public water supply,
- b. one (1) mile of any designated scenic river area as specified by the Scenic Rivers Act,
- c. one (1) mile of a public drinking water well, and
- d. one (1) mile of a water body specified as Outstanding Resource Waters that has recreational or ecological significance as outlined by the most current Water Quality Standards promulgated by the Oklahoma Water Resources Board.

Added by Laws 2002, c. 65, § 1.

§2-10-9.9. Designation of poultry feeding operation as concentrated animal feeding operation - Rules.

A. In addition to the authority of the State Board of Agriculture to make designations of a concentrated animal feeding operation pursuant to Section 20-44 of this title, the Board shall

have the power to designate a poultry feeding operation as a concentrated animal feeding operation as defined by Section 20-41 of this title subject to the provisions of the Oklahoma Concentrated Animal Feeding Operations Act after an administrative determination that an operation has violated or is unwilling to comply with any of the provisions of the Oklahoma Registered Poultry Feeding Operations Act, or any rule promulgated pursuant thereto whether or not the Oklahoma Department of Agriculture, Food, and Forestry determines the registered poultry feeding operation to be a significant contributor of pollution to waters of this state.

B. In order to protect the public health and safety and the environment of this state, the Board, pursuant to the Oklahoma Registered Poultry Feeding Operations Act, may require application for a concentrated animal feeding operation license to establish and operate a poultry feeding operation on and after the effective date of this act to any person or other legal entity which:

1. Is not in substantial compliance with a final agency order or any final order or judgment of a court of record secured by any state or federal agency relating to poultry feeding operations; or

2. Has evidenced a reckless disregard for the protection of the public and the environment as demonstrated by a history of noncompliance with environmental laws and rules resulting in endangerment of human health or the environment.

C. Any action taken in regard to the denial, suspension or revocation of a license shall be in conformity with the rules of the Board governing administrative procedures and with the Administrative Procedures Act.

D. The Board shall promulgate rules which will provide a procedure whereby any poultry feeding operation which has been designated a concentrated animal feeding operation pursuant to this section may have such designation removed. The rules shall require satisfactory evidence that such designation is no longer necessary in order to ensure that the operation will comply with all provisions of the Oklahoma Registered Poultry Feeding Operations Act and will not contribute to pollution of the waters of this state.

Added by Laws 1998, c. 232, § 9, eff. July 1, 1998. Amended by Laws 2015, c. 313, § 7, eff. July 1, 2015.

§2-10-9.10. Investigation of complaints - Entry upon premises - Standard health precautions.

A. 1. a. The State Board of Agriculture or its authorized agents are empowered to enter upon the premises of any poultry feeding operation for the purpose of investigating complaints as to the operation or to determine whether there are any violations of the Oklahoma Registered Poultry Feeding Operations Act.

- b. This section shall not be construed to authorize the Board or its agents to violate any provision of the United States Constitution or the Oklahoma Constitution relating to unlawful search or seizure.
- 2.
 - a. Registration of a poultry feeding operation pursuant to the Oklahoma Registered Poultry Feeding Operations Act shall be deemed to constitute consent for entry upon the premises of such operation by the Board or its agents for the purpose of implementing the provisions of this subsection.
 - b. The Oklahoma Department of Agriculture, Food, and Forestry shall make at least one inspection per calendar year of every poultry feeding operation registered pursuant to the Oklahoma Registered Poultry Feeding Operations Act.

B. 1. The Board shall promulgate standard precautions for the prevention of the transmission of communicable diseases to humans and animals to be used by employees of the Department when inspecting poultry feeding operations pursuant to their official duties specified by the Oklahoma Registered Poultry Feeding Operations Act and rules promulgated pursuant thereto.

2. Except for emergency situations or when enforcement of the provisions of the Oklahoma Registered Poultry Feeding Operations Act requires the use of the standard precautions as promulgated by the Board pursuant to paragraph 1 of this subsection, Department employees shall observe the health standards and sanitary requirements of the facility.

C. The Board shall maintain necessary records and undertake such studies, investigations and surveys for the proper administration of the Oklahoma Registered Poultry Feeding Operations Act.

Added by Laws 1998, c. 232, § 10, eff. July 1, 1998. Amended by Laws 2015, c. 313, § 8, eff. July 1, 2015.

§2-10-9.11. Violations - Criminal and administrative penalties - Injunctions.

A. 1. Any person violating the provisions of the Oklahoma Registered Poultry Feeding Operations Act shall, upon conviction, be guilty of a misdemeanor and may be punished by a fine not to exceed Two Hundred Dollars (\$200.00).

2. The Attorney General or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of the Oklahoma Registered Poultry Feeding Operations Act or any rule promulgated thereunder.

B. 1. In addition to the criminal penalties specified by this section, the Oklahoma Department of Agriculture, Food, and Forestry may:

- a. assess an administrative penalty of not more than Two Hundred Dollars (\$200.00) per day of noncompliance, or
- b. bring an action for injunctive relief granted by a district court.

2. A district court may grant injunctive relief to prevent a violation of, or to compel compliance with, any of the provisions of the Oklahoma Registered Poultry Feeding Operations Act or any rule promulgated thereunder or order, registrations and certificates issued pursuant to the Oklahoma Registered Poultry Feeding Operations Act.

3. Nothing in this section shall preclude the Department from seeking penalties in district court in the maximum amount allowed by law. The assessment of penalties in an administrative enforcement proceeding shall not prevent the subsequent assessment by a court of the maximum criminal penalties for violations of the Oklahoma Registered Poultry Feeding Operations Act.

4. Any person assessed an administrative penalty may be required to pay, in addition to such penalty amount and interest thereon, attorney fees and costs associated with the collection of such penalties.

C. 1. Any action for injunctive relief to redress or restrain a violation by any person of the Oklahoma Registered Poultry Feeding Operations Act, or for any rule promulgated thereunder, or order issued pursuant thereto, or recovery of any administrative penalty assessed pursuant to the Oklahoma Registered Poultry Feeding Operations Act may be brought by:

- a. the district attorney of the appropriate district court of the State of Oklahoma,
- b. the Attorney General on behalf of the State of Oklahoma, or
- c. the Department on behalf of the State of Oklahoma.

2. The court shall have jurisdiction to determine the action, and to grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

3. It shall be the duty of the Attorney General and district attorney if requested by the Commissioner of Agriculture to bring such actions.

D. Except as otherwise provided by law, administrative and civil penalties shall be paid into the State Department of Agriculture Regulation Revolving Fund.

E. For the purposes of the Oklahoma Registered Poultry Feeding Operations Act, each day upon which a violation is committed or is permitted to continue shall be deemed a separate offense.

F. Any contract poultry grower determined after notice and opportunity for a hearing by the Department as flagrantly

disregarding Best Management Practices shall result in the Department notifying the integrator in writing.

G. The Department shall notify all integrators of any violations assessed against an operator who is under a contract growing arrangement with that integrator and, upon the written request of the integrator, notify that integrator of all violations assessed an operator with whom the integrator contemplates entering into a contract.

H. In addition to other penalties as may be imposed by law, any person who knowingly makes any false statement, representation or certification form, notice or report, or who knowingly renders inaccurate any monitoring device or method required to be maintained by any rule promulgated by the Board, shall, upon conviction, be guilty of a misdemeanor and may be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) for each such violation.

Added by Laws 1998, c. 232, § 11, eff. July 1, 1998. Amended by Laws 2015, c. 313, § 9, eff. July 1, 2015.

§2-10-9.12. Promulgation of rules.

A. The State Board of Agriculture shall promulgate rules for the administration, implementation, and enforcement of the Oklahoma Registered Poultry Feeding Operations Act.

B. For the performance of its duties and responsibilities, the Board is authorized to employ such personnel and agents as may be required within the funds available.

Added by Laws 1998, c. 232, § 12, eff. July 1, 1998. Amended by Laws 2013, c. 227, § 2, eff. Nov. 1, 2013; Laws 2015, c. 313, § 10, eff. July 1, 2015.

§2-10-9.13. Short title - Oklahoma Poultry Waste Transfer Act - Purpose.

A. Sections 10-9.13 through 10-9.15 of this title shall be known and may be cited as the "Oklahoma Poultry Waste Transfer Act". The purpose of this act shall be to encourage the transfer of poultry waste out of designated nutrient-limited watersheds and nutrient-vulnerable groundwater as designated in the most recent Oklahoma Water Quality Standards.

B. The Oklahoma Department of Agriculture, Food, and Forestry shall develop a plan to encourage the transfer of poultry waste out of designated nutrient-limited watersheds and nutrient-vulnerable groundwater as designated by the most recent Oklahoma Water Quality Standards.

Added by Laws 1998, c. 232, § 13, eff. July 1, 1998. Amended by Laws 2015, c. 313, § 11, eff. July 1, 2015.

§2-10-9.14. Poultry Waste Transfer Fund.

A. There is hereby created in the State Treasury a fund for the Oklahoma Department of Agriculture, Food, and Forestry to be designated as the Poultry Waste Transfer Fund. The fund shall be a continuing fund not subject to fiscal year limitations and shall consist of:

1. All monies received by the Department for implementing the purpose of the provisions of the Oklahoma Poultry Waste Transfer Act;

2. Interest attributable to investment of money in the Poultry Waste Transfer Fund; and

3. Money received by the Department in the form of gifts, grants, reimbursements, or from any other source intended to be used for the purposes specified by or collected pursuant to the provisions of the Poultry Waste Transfer Fund.

B. The monies deposited in the Poultry Waste Transfer Fund shall at no time become monies of the state and shall not become part of the general budget of the Department or any other state agency. Except as provided for in this section, no monies from the Poultry Waste Transfer Fund shall be transferred for any purpose to any other state agency or any account of the Department or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

Added by Laws 1998, c. 232, § 14, eff. July 1, 1998. Amended by Laws 2015, c. 313, § 12, eff. July 1, 2015.

§2-10-9.15. Repealed by Laws 2015, c. 313, § 24, eff. July 1, 2015.

§2-10-9.16. Short title - Oklahoma Poultry Waste Applicators Certification Act.

Sections 10-9.16 through 10-9.21 of this title shall be known and may cited as the "Oklahoma Poultry Waste Applicators Certification Act".

Added by Laws 1998, c. 232, § 16, eff. July 1, 1998. Amended by Laws 2015, c. 313, § 13, eff. July 1, 2015.

§2-10-9.17. Applicator's certificates - Application - Renewal - Violation - Fees.

A. It shall be unlawful and a misdemeanor punishable by a fine of not more than Five Thousand Dollars (\$5,000.00) for any person to act, operate, or do business or advertise as a commercial poultry waste applicator or to land-apply poultry waste as a private poultry waste applicator unless such person has obtained a valid applicator's certificate issued by the State Board of Agriculture.

B. Applicator's certificates shall be issued by the Board, to applicants who qualify under the provisions of the Oklahoma Poultry Waste Applicators Certification Act.

C. Certificates shall be issued only upon application therefor to the Board on a form of application prescribed by the Board. The

application shall contain information regarding the applicant's qualifications and proposed operations and such other information as may be specified by the Board.

D. A certificate shall be issued only after satisfactory completion of such certification standards as determined by the Board.

E. 1. All commercial applicator certificates shall expire on the thirty-first day of December following their issuance or renewal, and may be renewed for the ensuing calendar year, without penalty, if a properly completed application is filed with the Board not later than the first day of January of each year. A registration fee of Fifteen Dollars (\$15.00) shall accompany every initial application for certification. A renewal fee of Fifteen Dollars (\$15.00) shall accompany every renewal application.

2. All private applicator certificates shall be in effect for five (5) years and may be renewed by application. A registration fee of Fifteen Dollars (\$15.00) shall accompany every initial application for certification. A renewal fee of Fifteen Dollars (\$15.00) shall accompany every renewal application. The Fifteen Dollar (\$15.00) registration and renewal fee shall be waived if the private applicator is also registered pursuant to the Oklahoma Registered Poultry Feeding Operations Act.

3. All such fees shall be deposited in the Agriculture Regulation Revolving Fund to be used for the purpose of implementing the provisions of the Oklahoma Registered Poultry Feeding Operations Act and the Oklahoma Poultry Waste Applicators Certification Act.

F. Any person issued an applicator's certificate shall comply with the education provisions of subsection F of Section 10-9.5 of this title.

Added by Laws 1998, c. 232, § 17, eff. July 1, 1998. Amended by Laws 2000, c. 367, § 126, emerg. eff. June 6, 2000; Laws 2011, c. 55, § 2, eff. Jan. 1, 2012; Laws 2015, c. 313, § 14, eff. July 1, 2015.

§2-10-9.18. Report regarding all poultry waste land-applied.

A. 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. The report shall contain the following information:

1. The legal description and county where the poultry waste was produced;

2. The legal description and county where the poultry waste was land-applied;

3. Date of each application;

4. Total and per-acre amount of each application;

5. Name, address, and telephone number of the person for whom poultry waste was applied;

6. The most recent soil test results obtained; and

7. Such other information as may be required by the State Board of Agriculture.

B. The Department shall make available forms to be used in making such report.

C. Applicators who seek to obtain a renewal certificate shall submit the report with their application for renewal. No renewal certificate may be issued without submission of this report.

Added by Laws 1998, c. 232, § 18, eff. July 1, 1998. Amended by Laws 2015, c. 313, § 15, eff. July 1, 2015.

§2-10-9.19. Land application of poultry waste - Tests - Rate - Rules.

1. Prior to any land application of poultry waste by a certified poultry waste applicator, the applicator shall obtain the most recent soil and poultry waste tests as required by the Oklahoma Poultry Waste Applicators Certification Act.

2. Land application of poultry waste in a non-nutrient-limited watershed and non-nutrient-vulnerable groundwaters shall not be made at any rate which exceeds the most recently published United States Department of Agriculture Natural Resources Conservation Service Waste Utilization Standards.

3. The Oklahoma Department of Agriculture, Food, and Forestry may promulgate rules pursuant to the Administrative Procedures Act which will prohibit the land application of poultry waste in nutrient-limited watersheds and nutrient-vulnerable groundwaters based upon lower soil phosphorous levels than are allowed in this section for non-nutrient-limited watersheds and non-nutrient-vulnerable groundwaters.

Added by Laws 1998, c. 232, § 19, eff. July 1, 1998. Amended by Laws 2000, c. 367, § 127, emerg. eff. June 6, 2000; Laws 2015, c. 313, § 16, eff. July 1, 2015.

§2-10-9.19a. Land application of poultry waste - Compliance with animal waste management and conservation plans.

Land application of poultry waste, whether performed by a private or commercial poultry waste applicator, shall comply at all times with the provisions set forth in:

1. The Nutrient Management Plan, if application is conducted on land operated by a registered poultry feeding operation; and

2. The Conservation Plan, if application is conducted on land operated by entities not regulated pursuant to the Oklahoma Registered Poultry Feeding Operations Act and is located in a nutrient-limited watershed.

Added by Laws 2002, c. 65, § 2. Amended by Laws 2015, c. 313, § 17, eff. July 1, 2015.

§2-10-9.20. Administration and enforcement of act - Rules and standards - Reciprocal agreements - Test samples.

A. The Oklahoma Department of Agriculture, Food, and Forestry shall administer and enforce the provisions of the Oklahoma Poultry Waste Applicators Certification Act and shall promulgate rules and standards for the application of poultry waste, work performance, the certification of applicators of poultry waste, recertification of applicators, procedures, and best management practices.

B. The State Board of Agriculture shall have the authority to negotiate reciprocal agreements with the federal government or any state, or any department or agency of either for the purpose of fulfilling the intent of the Oklahoma Poultry Waste Applicators Certification Act.

C. The Department may take samples of poultry waste and soil at application sites in order to determine their concentration. The work of each applicator may be inspected at the application site of each applicator to determine whether or not the work is performed according to the provisions of the Oklahoma Poultry Waste Applicators Certification Act.

Added by Laws 1998, c. 232, § 20, eff. July 1, 1998. Amended by Laws 2015, c. 313, § 18, eff. July 1, 2015.

§2-10-9.21. Suspension, cancellation, denial or revocation of certificate.

A. Any certificate issued pursuant to the Oklahoma Poultry Waste Applicators Certification Act may be suspended, canceled, denied, or revoked by the Oklahoma Department of Agriculture, Food, and Forestry after notice and an opportunity to be heard has been given to the holder of the certificate.

B. Suspension, cancellation, denial or revocation of a certificate may be made if the Department finds the holder of the certificate:

1. Has used methods of poultry waste not suitable or safe for the land-application site for which they shall have been employed;

2. Has failed or refused to furnish the Oklahoma Department of Agriculture, Food, and Forestry, upon request, true information regarding methods and safety measures used, work performed, or other information deemed essential by the Department, or has made any false statement or representation in such person's application for issuance or renewal of a certificate;

3. Has violated any state law, rule, or standard prescribed or order issued by the State Board of Agriculture;

4. Has failed or refused to file annual reports as specified in the Oklahoma Poultry Waste Applicators Certification Act;

5. Has failed to perform work according to minimum standards authorized by the Oklahoma Poultry Waste Applicators Certification Act;

6. Has acted, operated, done business, or advertised as a commercial applicator without having obtained a valid certificate issued by the Department;

7. Has acted or operated as a private applicator without having obtained a valid private poultry waste applicator certificate issued by the Department;

8. Has not complied with the education provisions of subsection F of Section 10-9.5 of this title; or

9. Has been convicted in any court of a violation of the Oklahoma Poultry Waste Applicators Certification Act.

Added by Laws 1998, c. 232, § 21, eff. July 1, 1998. Amended by Laws 2000, c. 367, § 128, emerg. eff. June 6, 2000; Laws 2011, c. 55, § 3, eff. Jan. 1, 2012; Laws 2015, c. 313, § 19, eff. July 1, 2015.

§2-10-9.22. Repealed by Laws 2015, c. 313, § 25, eff. July 1, 2015.

§2-10-9.23. Report of educational activities - Evaluation of effectiveness of curriculum.

The Oklahoma Cooperative Extension Service shall provide to the Secretary of the Environment no later than January 31 of each year a written report of their educational activities involving poultry operators and waste applicators pursuant to this act. This report shall include, but not be limited to:

1. The number of operators and applicators enrolled in courses required in the first year listed by county;

2. The number of operators successfully completing such courses listed by county;

3. The number of operators and applicators enrolled in courses required in subsequent years listed by county; and

4. The number of operators successfully completing such courses listed by county.

The Secretary of the Environment shall use the data provided in this report along with water quality monitoring and other environmental data to evaluate the effectiveness of the curriculum offered. The Secretary shall work in conjunction with the Oklahoma Cooperative Extension Service to correct any course deficiencies identified in the evaluation.

Added by Laws 1998, c. 232, § 23, eff. July 1, 1998. Amended by Laws 2015, c. 313, § 20, eff. July 1, 2015.

§2-10-9.24. Agriculture Regulation Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Agriculture, Food, and Forestry to be designated the "Agriculture Regulation Revolving Fund". The fund

shall be a continuing fund, not subject to fiscal year limitations, and shall consist of fees and fines assessed on concentrated animal feeding operations, registered poultry feeding operations, and any other monies deposited in this fund pursuant to law. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Department of Agriculture, Food, and Forestry for the regulation, enforcement, and administration of the Oklahoma Department of Agriculture, Food, and Forestry Water Quality Division. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment. Added by Laws 1998, c. 232, § 24, eff. July 1, 1998. Amended by Laws 2012, c. 304, § 9.

§2-10-9.25. Severability.

The provisions of this act are severable and if any part or provision shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.

Added by Laws 1998, c. 232, § 26, eff. July 1, 1998.

§2-10-10.1. Short title.

This act shall be known and may be cited as the "Eucha-Spavinaw Management Act".

Added by Laws 2007, c. 251, § 1, eff. July 1, 2007.

§2-10-10.2. Definitions.

As used in the Eucha-Spavinaw Management Act:

1. "Animal waste management plan" or "AWMP" means a written plan that includes a combination of conservation and management practices designed to protect the natural resources of the state as required by the Oklahoma Department of Agriculture, Food, and Forestry pursuant to the provisions of Section 10-9.7 of Title 2 of the Oklahoma Statutes;

2. "Application site" means any tract of land in the Eucha-Spavinaw Watershed where poultry waste is land applied;

3. "Board" means the State Board of Agriculture;

4. "City of Tulsa Case" means the federal court proceeding Case No. 01 CV0900EA(C), filed in the United States District Court for the Northern District of Oklahoma in December, 2001;

5. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry;

6. "Eucha-Spavinaw phosphorous index (PI)" means the phosphorus assessment tool adopted by the court in the City of Tulsa Case by court order entered on February 13, 2004, developed to govern the terms and conditions under which litter may be land applied in the

Eucha-Spavinaw Watershed, and includes any modifications approved and adopted by the court in that case, or as approved and adopted by the Board in accordance with its rule-making procedures. Provided however, the Board shall not amend the PI to make it less protective of the waters of the state than the PI adopted by the court in the City of Tulsa Case;

7. "Eucha-Spavinaw Watershed" means the watershed for Lakes Eucha and Spavinaw located in Delaware County and Mayes County, Oklahoma, as further defined by Hydrologic Unit Code (HUC) 11070206 as compiled by the United States Geological Survey, Natural Resources Conservation Services;

8. "Land application" means the spreading on, or the incorporation into, the soil mantle primarily for beneficial purposes;

9. "Poultry Act" means the Oklahoma Registered Poultry Feeding Operations Act, the Oklahoma Poultry Waste Transfer Act, and the Oklahoma Poultry Waste Applicators Certification Act, either separately or collectively;

10. "Poultry waste" means poultry excrement, poultry carcasses, feed wastes, or any other waste associated with the confinement of poultry from a poultry feeding operation; and

11. "Settlement Agreement" means the settlement agreement dated July 16, 2003, between the parties in the City of Tulsa Case. Added by Laws 2007, c. 251, § 2, eff. July 1, 2007.

§2-10-10.3. Purpose - Application - Construction.

A. It shall be the purpose of the Eucha-Spavinaw Management Act to preserve and promote the purposes and agreements of the parties set forth in the Settlement Agreement with regard to the Eucha-Spavinaw Watershed. Provided, nothing in this act is intended or shall be construed as an amendment to the Settlement Agreement or the rights and duties granted the parties therein.

B. The Eucha-Spavinaw Management Act shall apply to all persons utilizing poultry waste for land application purposes in the Eucha-Spavinaw Watershed and shall only apply to the Eucha-Spavinaw Watershed.

C. The Eucha-Spavinaw Management Act shall be construed in harmony with the purpose, intent and provisions of all other applicable state or federal laws, rules and regulations that preserve and protect the waters of the state, public health and safety and the environment including, but not limited to, Title 2 and Title 27A of the Oklahoma Statutes.

Added by Laws 2007, c. 251, § 3, eff. July 1, 2007.

§2-10-10.4. Administration by Board of Agriculture - Board authorized to accept gifts.

A. The Eucha-Spavinaw Management Act shall be administered and enforced by the State Board of Agriculture and the Oklahoma Department of Agriculture, Food, and Forestry pursuant to the Poultry Act.

B. In addition to any legislative appropriation allocated to the Board or Department for normal operations and duties, the Board or Department is hereby authorized to accept any gift or donation of property, including but not limited to monetary gifts, to carry out the provisions of the Eucha-Spavinaw Management Act.

Added by Laws 2007, c. 251, § 4, eff. July 1, 2007.

§2-10-10.5. Land application rate - Soil and waste testing.

A. The land application rate for all poultry waste in the Eucha-Spavinaw Watershed shall be specified in the animal waste management plan and shall follow the requirements and limitations of the applicable Eucha-Spavinaw phosphorous index (PI).

B. Soil testing and poultry waste testing shall be performed in the Eucha-Spavinaw Watershed in the manner and frequency prescribed in the Poultry Act for nutrient-limited watersheds and the records shall be maintained as prescribed in the Poultry Act.

Added by Laws 2007, c. 251, § 5, eff. July 1, 2007.

§2-10-21. State Poultry Show - Expenses - Two divisions.

There is hereby established in the State of Oklahoma a State Poultry Show, which shall be held annually under the supervision of the Oklahoma State Poultry Federation. The show shall be held each year at a central point in the State of Oklahoma designated by the Oklahoma State Poultry Federation. Expenses may be paid from any funds that have been made available for that purpose to the State Department of Agriculture or the State Board of Agriculture on claims approved by the Board. The State Poultry Show shall be divided into two divisions:

1. Adult or Open Division. Any person raising poultry may exhibit in the Division. Entry fees and premiums shall be fixed by the Board in cooperation and after consultation with the Oklahoma State Poultry Federation or its representatives. Nonresident exhibitor premiums shall be paid from entry fees collected by the Oklahoma State Poultry Federation; and

2. Junior Division. An exhibitor in the division shall be a boy or girl between the ages of nine (9) and nineteen (19) years. Participation in the Junior Divisions of all contests in school district, county, and state poultry and egg shows shall be limited to specimens of poultry and eggs actually produced and raised by school children of that district, county, and the state, respectively.

Added by Laws 1955, p. 93, art. 10(B), § 1. Amended by Laws 1994, c. 126, § 1, emerg. eff. May 2, 1994; Laws 2000, c. 367, § 129, emerg. eff. June 6, 2000.

§2-10-22. Repealed by Laws 1993, c. 239, § 55, eff. July 1, 1993.

§2-10-23. County poultry show - Funds.

The board of county commissioners of each county in the state may include in its annual estimate of needs a sum of not less than Two Hundred Fifty Dollars (\$250.00) for a county poultry show, which may be placed in a separate fund to be known as the "county poultry show fund". The county excise board shall make a sufficient appropriation and levy for such purpose. The county poultry show fund shall be used in holding an annual county poultry show. The show shall be held by the county branch of the Oklahoma State Poultry Federation. All expenditures from the fund shall be approved by the board of county commissioners.

Added by Laws 1955, p. 94, art. 10(B), § 3. Amended by Laws 1994, c. 126, § 2, emerg. eff. May 2, 1994; Laws 2000, c. 367, § 130, emerg. eff. June 6, 2000.

§2-10-24. Repealed by Laws 1993, c. 239, § 55, eff. July 1, 1993.

§2-10-25. Premiums and expenses.

At least sixty percent (60%) of any amount made available for the state show or any county show shall be used to pay premiums and to defray expenses for the junior division of the show. The remainder shall be used to pay premiums and to defray expenses for the adult or open division.

Added by Laws 1955, p. 94, art. 10(B), § 5. Amended by Laws 2000, c. 367, § 131, emerg. eff. June 6, 2000.

§2-10-26. State-wide broiler show.

In order to promote greater interest in the production of high quality broilers in the State of Oklahoma, particularly among the junior members of farm organizations, including the FFA and 4-H Clubs, there is established in the State of Oklahoma an annual state-wide broiler show. The show shall be organized and operated in cooperation with various recognized associations within the State of Oklahoma by the State Board of Agriculture.

Added by Laws 1957, p. 10, § 1. Amended by Laws 1994, c. 126, § 3, emerg. eff. May 2, 1994; Laws 2000, c. 367, § 132, emerg. eff. June 6, 2000.

§2-10-27. Time and place - Rules - Premiums.

The State Board of Agriculture is authorized to designate the exact time and place where the state-wide broiler show shall be held and make rules governing the operation of the show and the fixing of premiums to be paid to various exhibitors.

Added by Laws 1957, p. 10, § 2. Amended by Laws 2000, c. 367, § 133, emerg. eff. June 6, 2000.

§2-10-28. Fees.

A fee not to exceed Two Dollars (\$2.00) per entry at each broiler show may be charged to all exhibitors. Exhibitors under the age of eighteen (18) shall be permitted to exhibit without payment.

Added by Laws 1957, p. 10, § 3. Amended by Laws 2000, c. 367, § 134, emerg. eff. June 6, 2000.

§2-10-29. Repealed by Laws 1996, c. 138, § 8, emerg. eff. May 1, 1996.

§2-10-30. Premiums to junior exhibitors.

A maximum of eighty-five percent (85%) of the funds appropriated for the state-wide broiler show shall be used to pay premiums to junior exhibitors.

Added by Laws 1957, p. 11, § 5. Amended by Laws 2000, c. 367, § 135, emerg. eff. June 6, 2000.

§2-10-41. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-10-42. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-10-61. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-10-62. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-10-63. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-10-64. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-10-65. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-10-66. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-10-67. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-10-68. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-10-71. Definitions.

As used in this subarticle:

1. "Ambient temperature" means the atmospheric temperature surrounding or encircling shell eggs;
2. "Case" means thirty (30) dozen eggs or any container designed to hold thirty (30) dozen eggs;
3. "Consumer" means any person using eggs for food and including, but not limited to, restaurants, hotels, cafeterias, hospitals, state institutions, or any other establishment serving food to be consumed on the premises. The term "consumer" shall not include the armed forces or any other federal agency or institution where federal egg grade certificates are issued;
4. "Container" means any receptacle or packaging in which eggs are dispensed to consumers;
5. "Dealer" means any person engaged in the wholesale marketing of eggs. A dealer may also sell eggs to the consumer but shall not be considered a retailer;
6. "Eggs" means raw eggs in the shell that are the product of the domesticated chicken or egg products manufactured from raw eggs and intended for human consumption;
7. "Expiration date" means the date the eggs are to be removed from sale;
8. "Pack-date" means the date that the eggs were placed in the container;
9. "Packer" means any person who grades or packs eggs for sale to dealers, retailers, or consumers within the state. A packer may sell eggs to consumers but shall not be considered a dealer;
10. "Processor" means any person who operates a plant for the purpose of breaking or boiling eggs for liquid, freezing, drying, or commercial food manufacturing; and
11. "Retailer" means any person who sells eggs to a consumer.

Added by Laws 1957, p. 6, § 1. Amended by Laws 1985, c. 74, § 1, emerg. eff. May 20, 1985; Laws 1998, c. 272, § 1, eff. Nov. 1, 1998; Laws 2000, c. 243, § 41, emerg. eff. May 24, 2000. Renumbered from § 5-21 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-10-72. Pack-date and expiration date.

A. A pack-date may be in a three-digit Julian date or a calendar date.

B. An expiration date shall be used on the container, the date shall be preceded by "EXP", "sell by", or "use through".

Added by Laws 1985, c. 74, § 2, emerg. eff. May 20, 1985. Amended by Laws 1998, c. 272, § 2, eff. Nov. 1, 1998; Laws 2000, c. 243, § 42,

emerg. eff. May 24, 2000. Renumbered from § 5-21.1 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000. Amended by Laws 2002, c. 173, § 8, emerg. eff. May 6, 2002.

§2-10-72.1. Shell eggs not processed to destroy salmonellae - Safe handling instruction.

Shell eggs that have not been specifically processed to destroy all live salmonellae before distribution to the consumer shall require that the retail establishments include the following safe handling statement on the label of the shell egg container:

SAFE HANDLING INSTRUCTION: To prevent illness from bacteria: keep eggs refrigerated, cook eggs until yolks are firm and cook foods containing eggs thoroughly.

Added by Laws 2002, c. 173, § 9, emerg. eff. May 6, 2002.

§2-10-73. Refrigeration.

A. Eggs at the retail level shall be refrigerated at an ambient temperature of forty-five degrees (45°) Fahrenheit or lower. Eggs shall not be allowed to freeze.

B. Eggs stored at the packer's facility that are intended for sale to the consumer shall be held at a temperature in accordance with the USDA standards.

C. Except as provided in this section, eggs intended for sale to the consumer shall be stored and transported under refrigeration at an ambient temperature of forty-five degrees (45°) Fahrenheit or lower. All containers of shell eggs packed for the purpose of resale to the consumer are to be labeled with the following statement: "Keep refrigerated at or below 45 degrees Fahrenheit". This should be done at time of grading.

D. 1. Eggs being transported or held at retail or dealer locations without proper refrigeration may be destroyed or shipped to an egg processor.

2. Destruction or shipment of eggs as required by this subsection shall be under the supervision of an authorized agent of the Board.

3. Packers shall not be responsible for the interior quality of eggs if all handling procedures in this section are not followed by all parties after the sale of the eggs by the packer.

E. At retail locations a sign furnished by the Oklahoma Department of Agriculture, Food, and Forestry stating the proper procedure for storage and handling of eggs shall be permanently displayed at a location easily seen by egg-handling employees. Added by Laws 1998, c. 272, § 3, eff. Nov. 1, 1998. Amended by Laws 2000, c. 243, § 43, emerg. eff. May 24, 2000. Renumbered from § 5-21.2 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000. Amended by Laws 2002, c. 173, § 10, emerg. eff. May 6, 2002.

§2-10-74. Application of subarticle.

The provisions of this subarticle shall apply only to eggs bought or sold for human food or consumption by humans.

Added by Laws 1957, p. 6, § 2. Amended by Laws 2000, c. 243, § 44, emerg. eff. May 24, 2000. Renumbered from § 5-22 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-10-75. Standards.

A. The United States Department of Agriculture egg standards of size and quality shall be used as minimum standards for the State of Oklahoma.

B. Standards for egg products shall be the "Egg Products Inspection Act" (P.L. 91-597, 84 Stat. 1620 et seq.) including all amendments thereto.

Added by Laws 1957, p. 6, § 3. Amended by Laws 1965, c. 454, § 1; Laws 1998, c. 272, § 4, eff. Nov. 1, 1998; Laws 2000, c. 243, § 45, emerg. eff. May 24, 2000. Renumbered from § 5-23 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-10-76. Methods of grading.

All grading shall be performed as prescribed by the State Board of Agriculture.

Added by Laws 1957, p. 6, § 4. Amended by Laws 2000, c. 243, § 46, emerg. eff. May 24, 2000. Renumbered from § 5-24 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-10-77. Acts constituting violations of subarticle.

It shall be a violation of this subarticle for any person other than those exempted in Section 10-77 of the Oklahoma Agricultural Code:

1. To sell, display for sale, or offer for sale eggs below the quality of "Oklahoma Grade B" to consumers;
2. To sell, display for sale, or offer for sale eggs to consumers unless the container shows the pack-date and indicates the correct size and grade in boldface legible letters with no other descriptive wording. Descriptive wording is permitted if the eggs are not below the quality of "Oklahoma Grade A" and the descriptive wording is not false or misleading;
3. To sell, display for sale, or offer for sale eggs to consumers unless the container exterior bears one of the following acceptable methods:
 - a. USDA plant number assigned by USDA, AMS while plant is under contract for official grading service,
 - b. Oklahoma state permit number as assigned by the Oklahoma Department of Agriculture, Food, and Forestry,
 - c. packer name with complete address of the location where eggs were packed, and

- d. USDA shell egg surveillance registrant number including state code and handler code. Example: 05 0267 NOTE: The shell egg surveillance registrant number contains a state code, county code, and handler code. Do not include the county code, only state and handler code;

4. To falsely or deceptively label, mark, advertise, or invoice eggs;

5. To advertise eggs for sale with any descriptive wording, except official grade designations, unless the eggs meet the quality requirements of "Oklahoma Grade A" or "Oklahoma Grade AA", or to state a price when advertising eggs without also designating the full, correct, and unabbreviated grade and size;

6. To store graded eggs at a higher ambient temperature than specified in Section 10-73 of this title, including "Grade B" and above, which are in the person's possession for sale or resale to consumers;

7. To sell, display for sale, or offer for sale eggs to consumers in a container that does not bear the permit number of the packer or processor showing that the inspection fee has been paid;

8. To use a retail egg container more than one time;

9. To do business as a packer, processor, retailer, or dealer of eggs without first obtaining a license from the Board;

10. To fail or neglect to pay any license or inspection fee, to fail or neglect to file the monthly inspection fee report when required, or to file a false monthly report of the quantity of eggs packed for sale during any month;

11. To refuse any authorized agent of the Board entry to any premises or deny access to records or product when conducting inspections, investigations, or audits made pursuant to this subarticle;

12. To sell, display for sale, or offer for sale eggs to consumers below Grade "A" with any descriptive wording other than the correct grade as provided by the United States Department of Agriculture standards for shell eggs; or

13. For any packer or dealer to sell eggs intended for sale in Oklahoma to another packer, dealer, or retailer who does not hold an appropriate Oklahoma license.

Added by Laws 1957, p. 6, § 5. Amended by Laws 1961, p. 4, § 1, emerg. eff. Aug. 7, 1961; Laws 1965, c. 179, § 1; Laws 1985, c. 74, § 3, emerg. eff. May 20, 1985; Laws 1998, c. 272, § 5, eff. Nov. 1, 1998; Laws 2000, c. 243, § 47, emerg. eff. May 24, 2000. Renumbered from § 5-25 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000. Amended by Laws 2002, c. 173, § 11, emerg. eff. May 6, 2002.

§2-10-78. Sale of eggs produced on farm directly to consumer not prohibited.

A. Oklahoma producers of eggs selling ungraded eggs from their own flock production are exempt from this subarticle. Nothing in this subarticle shall prohibit the sale of eggs produced on the farm and sold direct to the consumer. Eggs sold under this section shall be produced by hens maintained on the farm from which the eggs are sold.

B. A producer may sell graded eggs if in compliance with this subarticle.

Added by Laws 1961, p. 5, § 2. Amended by Laws 2000, c. 243, § 48, emerg. eff. May 24, 2000. Renumbered from § 5-25.1 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-10-79. Enforcement of subarticle.

A. The State Board of Agriculture and authorized agents shall enforce the provisions of this subarticle. The Board shall promulgate the necessary rules to carry out the provisions of this subarticle.

B. Any authorized agent of the Board may enter any place of business within the state where any eggs are bought, sold, graded, or held and may take for inspection purposes samples of eggs and egg containers.

C. Any authorized agent of the Board may seize and hold as evidence any eggs displayed or offered for sale in violation of any provisions of this subarticle.

Added by Laws 1957, p. 7, § 6. Amended by Laws 1998, c. 272, § 6, eff. Nov. 1, 1998; Laws 2000, c. 243, § 49, emerg. eff. May 24, 2000. Renumbered from § 5-26 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-10-80. Samples of lots or containers.

The State Board of Agriculture shall establish methods for selecting samples which are representative of entire lots or containers of eggs. Any sample inspected or official certificate of the grade and size of the eggs by the Board shall be prima facie evidence of the correct grade, size, and condition of the entire lot.

Added by Laws 1957, p. 7, § 7. Amended by Laws 2000, c. 243, § 50, emerg. eff. May 24, 2000. Renumbered from § 5-27 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-10-81. Licenses - Application - Fees - Term - Renewal - Inspection fee - Records - Annual audit - Report of fees due and payable.

A. No person shall be issued a license to handle eggs commercially unless an application has been properly filed on a form provided by the State Board of Agriculture, and the annual license fee has been paid. The license shall not be transferable.

1. A state egg dealer's license shall be Thirty-five Dollars (\$35.00).

2. An egg packer or processor license shall be Thirty-five Dollars (\$35.00).

3. Each license shall expire annually on the last day of the anniversary month in which the license was issued. The Board shall adjust the anniversary date to provide for efficient administration.

4. Each location shall require a separate license.

5. Packers residing within the state who package eggs intended solely for distribution sale or resale outside the state shall obtain a license except the packer shall be exempt from all fee and reporting requirements. A packer shall be subject to all inspections, record keeping, and audits.

6. If a license expires and is not renewed within thirty (30) days of its expiration, the applicant for renewal shall pay a penalty. The penalty shall be an amount equal and in addition to the license fee.

B. Each packer or processor shall pay an inspection fee of three (3) mills per dozen on all eggs that are processed, graded, packed, or repacked which are intended for sale to consumers in this state.

1. There shall be a nine-cent (\$0.09) per case inspection fee on all egg products sold or shipped into the state.

2. All egg products processors shall pay the inspection fees on all processed eggs sold or used for human consumption in the state based on the following formula:

- a. thirty-six (36) pounds of frozen or liquid eggs equals a thirty-dozen case of shell eggs,
- b. nine (9) pounds of dried eggs equals a thirty-dozen case of shell eggs,
- c. two (2) containers of boiled eggs weighing twenty (20) to twenty-five (25) pounds each equals a thirty-dozen case of shell eggs, and
- d. fifty (50) pounds of cooked or diced eggs equals a thirty-dozen case of shell eggs.

C. 1. Packers, processors and dealers shall keep records of eggs graded, packed, distributed, or sold as required by the State Board of Agriculture.

2. Records shall be maintained for three (3) years. The Board shall have access to all required records of any applicant for a license.

3. The Board shall audit the records of packers who report and pay monthly fees at least once every three (3) years. The packer shall reimburse to the Board for travel expenses incurred in conducting the required annual audit. The costs of audits other than the required annual audit shall be paid by the Board.

D. 1. Packers paying inspection fees on a monthly basis shall prepare a report of all fees due as of the last day of each month.

The report and fee payment shall be due no later than the fifteenth day of the following month.

2. Reports shall contain the quantity of eggs packed and intended for sale or resale in the state, the names of the dealers for whom the eggs were packed or to whom the eggs were sold or delivered, and all other information required by the Board.

3. Reports provided to the Board pursuant to this section shall not be public information and may be used only for administration of this article. Reports may be used for statistical information if specific packers are not identified by name or implication.

4. If a report is not filed and the fees are not paid within thirty (30) days of the due date, the packer shall pay a penalty of two percent (2%) of the fees due for each additional day the fees are late. If the report is not filed and the fees are not paid within sixty (60) days of the due date, the amount of the penalty shall be an amount equal and in addition to the amount of the fees due.

Added by Laws 1957, p. 7, § 8. Amended by Laws 1985, c. 74, § 4, emerg. eff. May 20, 1985; Laws 1988, c. 133, § 1, emerg. eff. April 15, 1988; Laws 1993, c. 278, § 17, operative Sept. 1, 1993; Laws 1998, c. 272, § 7, eff. Nov. 1, 1998; Laws 2000, c. 243, § 51, emerg. eff. May 24, 2000. Renumbered from § 5-28 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000. Amended by Laws 2002, c. 173, § 12, emerg. eff. May 6, 2002.

§2-10-91. Definitions.

As used in this subarticle:

1. "Consumer" means any person using poultry for food, and shall include restaurants, hotels, cafeterias, hospitals, state institutions, and/or any other establishment serving food to be consumed on the premises;

2. "Federal inspection" means the poultry inspection service conducted by the poultry inspection branch of the United States Department of Agriculture;

3. "Fowl" means chickens, turkeys, ducks, geese, and any other domesticated birds used for human food;

4. "Poultry" means domesticated raw fowl;

5. "Poultry products" means the carcasses or parts of carcasses of poultry produced entirely or in substantial part from poultry;

6. "Reclassified" means the reprocessing of poultry in which poultry is cut into parts and parts are graded;

7. "State inspection" means the poultry inspection service conducted by the Oklahoma State Board of Agriculture; and

8. "Wholesome" means sound, healthful, clean, and fit for human food.

Added by Laws 1961, p. 7, § 1. Amended by Laws 2001, c. 146, § 1, emerg. eff. April 30, 2001. Renumbered from § 738.1 of this title by Laws 2001, c. 146, § 246, emerg. eff. April 30, 2001.

§2-10-92. Stating of grade in advertising.

When advertising poultry or poultry products and using the words "inspected", "inspected for wholesomeness", "USDA inspected", "state inspected", or any other term that suggests or implies the product has been inspected, and a price is stated, the correct grade also shall be stated as grade A, B, or C.

Added by Laws 1961, p. 8, § 2. Amended by Laws 2001, c. 146, § 2, emerg. eff. April 30, 2001. Renumbered from § 738.2 of this title by Laws 2001, c. 146, § 246, emerg. eff. April 30, 2001.

§2-10-93. Maintaining of grade identity until purchase.

Poultry that has been graded shall maintain its grade identity until purchased by the consumer.

Added by Laws 1961, p. 8, § 3. Amended by Laws 2001, c. 146, § 3, emerg. eff. April 30, 2001. Renumbered from § 738.3 of this title by Laws 2001, c. 146, § 246, emerg. eff. April 30, 2001.

§2-11-1. Violations.

Any person shall be civilly liable to the State Board of Agriculture for all fines, fees, and charges if that person:

1. Fails, refuses, or neglects to pay any fee or charge that is required or authorized by the provisions of the Oklahoma Agricultural Code;

2. Fails, refuses, or neglects to obtain a license, permit, charter, or registration as provided, authorized, or required by the Oklahoma Agricultural Code;

3. Performs any act requiring a license, permit, charter, registration, or payment of a fee or charge without first obtaining a license, permit, charter, registration, or payment of a fee or charge; or

4. Violates any provision of the Oklahoma Agricultural Code or rules promulgated thereto.

Added by Laws 1955, p. 96, art. 11, § 1. Amended by Laws 1987, c. 132, § 1, emerg. eff. June 3, 1987; Laws 1999, c. 231, § 3, emerg. eff. May 26, 1999; Laws 2000, c. 243, § 111, emerg. eff. May 24, 2000.

§2-11-2. Ungraded agricultural products - Misleading practices - Penalty.

It shall be unlawful to sell, offer for sale, or advertise any agricultural product using any word, figure, number, or term which pertains to grade, quality, condition, quantity, or size, including No. 1, Fancy, Choice, Select, A, Large, Size A, or any other word,

figure, number, or term which in any manner implies or suggests that the product involved has been officially graded unless the product has actually been officially graded, sized, or measured under state or federal regulations or sized or measured in accordance with the requirements of the State Board of Agriculture or federal regulations.

Added by Laws 1955, p. 96, art. 11, § 2. Amended by Laws 1959, p. 3, § 2; Laws 1961, p. 8, § 1; Laws 1965, c. 278, § 1; Laws 2000, c. 243, § 112, emerg. eff. May 24, 2000.

§2-11-3. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-11-5. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-11-6. Licenses, permits or certificates issued under repealed sections.

Any license, permit, or certificate of registration issued under a statute that is repealed or superseded and has not expired shall be valid for the period for which the license, permit, or certificate was issued under the repealed or superseded statute if required for the same purpose by the Oklahoma Agricultural Code. However, all holders of the licenses, permits, and certificates of registration shall comply with the terms and provisions of this Code upon expiration of the licenses, permits, and certificates of registration.

Added by Laws 1955, p. 97, art. 11, § 6. Amended by Laws 2000, c. 243, § 113, emerg. eff. May 24, 2000.

§2-11-7. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-11-8. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-11-9. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-11-10. Tampering or attempting to tamper with anhydrous ammonia pipeline, equipment, container or storage device - Penalties - Theft or attempted theft of anhydrous ammonia - Civil action for injury resulting from illegal conduct barred.

A. 1. Except for necessary repairs to anhydrous ammonia equipment conducted by a registered distributor, supplier, dealer, or the owner of the equipment or designee of the owner, it shall be

unlawful for any person to tamper with or attempt to tamper with any anhydrous ammonia pipeline, equipment, container, or storage device.

2. Any person violating this provision shall, upon conviction thereof, be guilty of a felony punishable by imprisonment in the State Penitentiary for a term not exceeding five (5) years, by a fine of not more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment.

B. Theft or attempted theft of any amount of anhydrous ammonia shall be a felony punishable, upon conviction thereof, by imprisonment for not less than two (2) years nor more than ten (10) years in the State Penitentiary, by a fine not exceeding Twenty-five Thousand Dollars (\$25,000.00), or by both such fine and imprisonment.

C. Any person who commits or attempts theft of anhydrous ammonia or who unlawfully tampers with or attempts to unlawfully tamper with any anhydrous ammonia pipeline, equipment, container, or storage device, and as a result of unlawful conduct is injured shall be barred from commencing any civil action against the following persons:

1. Any owners of anhydrous ammonia or anhydrous ammonia pipeline, equipment, containers, or storage devices;

2. Any persons responsible for the installation, repair, or operation of anhydrous ammonia pipeline, equipment, containers, or storage devices;

3. Any person lawfully selling, transporting, transferring, or delivering anhydrous ammonia or anhydrous ammonia equipment, containers, or storage devices;

4. Any persons purchasing or storing anhydrous ammonia for agricultural purposes; or

5. Any persons operating anhydrous ammonia equipment or pipeline or using anhydrous ammonia for agricultural purposes.

D. For purposes of this section, "tampering" means any unauthorized adjustment, opening, removal, transfer, alteration, change, or interference with any part of the anhydrous ammonia pipeline, equipment, container, or storage device.

Added by Laws 2000, c. 265, § 2, emerg. eff. June 1, 2000. Amended by Laws 2001, c. 146, § 92, emerg. eff. April 30, 2001. Renumbered from § 1715 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001. Amended by Laws 2002, c. 173, § 7, emerg. eff. May 6, 2002. Renumbered from § 8-85.13 of this title by Laws 2002, c. 173, § 20, emerg. eff. May 6, 2002. Amended by Laws 2004, c. 5, § 1, emerg. eff. March 1, 2004.

NOTE: Laws 2002, c. 61, § 1 repealed by Laws 2004, c. 5, § 2, emerg. eff. March 1, 2004.

§2-11-20. Short title.

Sections 108 through 115 of this act shall be known and may be cited as the "Oklahoma Fuel Alcohol Act".

Added by Laws 1980, c. 2, § 1, emerg. eff. Feb. 6, 1980. Amended by Laws 2001, c. 146, § 108, emerg. eff. April 30, 2001. Renumbered from § 1901 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.

§2-11-21. Permit required.

It shall be unlawful for any person within this state to engage in the production of alcohol for use as a motor fuel, unless the person has obtained the required permit for either an experimental plant or a distilled spirits plant from the Bureau of Alcohol, Tobacco and Firearms of the United States Department of the Treasury and has, in addition thereto, received a permit from the State Department of Agriculture in accordance with the provisions of the Oklahoma Fuel Alcohol Act.

Added by Laws 1980, c. 2, § 2, emerg. eff. Feb. 6, 1980. Amended by Laws 2001, c. 146, § 109, emerg. eff. April 30, 2001. Renumbered from § 1902 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.

§2-11-22. Kinds of permits - Fees - Rules.

A. The kinds of permits which may be issued by the Department of Agriculture, and the annual fees therefor, shall be as follows:

1. Alcohol Fuel Producer Permit
(Small) \$ 25.00
2. Alcohol Fuel Producer Permit
(Medium) \$100.00
3. Alcohol Fuel Producer Permit
(Large) \$250.00

The alcohol fuel producer is required to obtain a state permit as defined by the Bureau of Alcohol, Tobacco and Firearms of the United States Department of the Treasury. If a different person purchases or acquires control of an alcohol fuel producing plant, that person must file a new application.

B. Alcohol fuel produced shall be rendered unfit at time of production for beverage use in conformity with Bureau regulations.

C. The premises of an alcohol fuel plant include all areas where distilled spirits are produced, processed, stored, used or held for distribution. The proprietor shall maintain security adequate to deter diversion of the spirits, and shall determine and record the quantities of spirits produced, received, rendered unfit for beverage use and used or removed from the premises.

D. Distilled spirits withdrawn from plant premises may be used only for fuel purposes and meet all Bureau requirements for withdrawal. Before withdrawing spirits from plant premises, the proprietor must render the spirits unfit for beverage use, with the

only exception being for those spirits transferred to other alcohol fuel producing plants.

E. The Corporation Commission shall have the authority to promulgate such rules to govern the sale of ethanol (ethyl alcohol) and gasoline mixtures.

Added by Laws 1980, c. 2, § 3, emerg. eff. Feb. 6, 1980. Amended by Laws 1981, c. 29, § 1, emerg. eff. April 6, 1981; Laws 2001, c. 146, § 110, emerg. eff. April 30, 2001. Renumbered from § 1903 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.

§2-11-23. Application for permit - Display of permit.

To obtain a permit from the Department of Agriculture, each applicant shall submit a copy of his or her valid federal permit, such application form as the Department may establish and the appropriate fee. The permit shall be conspicuously displayed in the producer's plant.

Added by Laws 1980, c. 2, § 4, emerg. eff. Feb. 6, 1980. Amended by Laws 2001, c. 146, § 111, emerg. eff. April 30, 2001. Renumbered from § 1904 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.

§2-11-24. Revocation of permit.

The state permit issued pursuant to the Oklahoma Fuel Alcohol Act shall be revoked if the permit holder's federal permit is revoked, the alcohol produced is diverted for any unauthorized use, the holder violates any provisions of the Oklahoma Fuel Alcohol Act, or if the annual fee is not paid.

Added by Laws 1980, c. 2, § 5, emerg. eff. Feb. 6, 1980. Amended by Laws 2001, c. 146, § 112, emerg. eff. April 30, 2001. Renumbered from § 1905 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.

§2-11-25. List of registered alcohol producers.

The Department of Agriculture shall maintain for public information a current list of all alcohol producers registered under the Oklahoma Fuel Alcohol Act. The list shall specify the type permit issued to each producer. A copy of the list shall monthly be filed with the Alcoholic Beverage Laws Enforcement Commission.

Added by Laws 1980, c. 2, § 6, emerg. eff. Feb. 6, 1980. Amended by Laws 2001, c. 146, § 113, emerg. eff. April 30, 2001. Renumbered from § 1906 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.

§2-11-26. Violations - Penalties.

Any person who violates any provision of the Oklahoma Fuel Alcohol Act shall be guilty of a felony, and shall upon conviction thereof be fined not more than Twenty-five Thousand Dollars

(\$25,000.00), or imprisoned in the State Penitentiary for not more than five (5) years or both.

Added by Laws 1980, c. 2, § 7, emerg. eff. Feb. 6, 1980. Amended by Laws 1997, c. 133, § 105, eff. July 1, 1999; Laws 1999, 1st Ex. Sess., c. 5, § 41, eff. July 1, 1999; Laws 2001, c. 146, § 114, emerg. eff. April 30, 2001. Renumbered from § 1907 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.

NOTE: Laws 1998, 1st Ex. Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 105 from July 1, 1998, to July 1, 1999.

§2-11-27. Rules - Inspection of plants.

The Department of Agriculture shall have the authority to establish the rules necessary to carry out the provisions of the Oklahoma Fuel Alcohol Act and shall periodically inspect all plants registered pursuant to the Oklahoma Fuel Alcohol Act.

Added by Laws 1980, c. 2, § 8, emerg. eff. Feb. 6, 1980. Amended by Laws 2001, c. 146, § 115, emerg. eff. April 30, 2001. Renumbered from § 1908 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.

§2-11-35. Short title.

This article shall be known and may be cited as the "Oklahoma Agriculture Biotechnology Act".

Added by Laws 1990, c. 226, § 1, emerg. eff. May 17, 1990. Amended by Laws 2001, c. 146, § 116, emerg. eff. April 30, 2001. Renumbered from § 2011 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.

§2-11-36. Purpose.

The purpose of the Oklahoma Agriculture Biotechnology Act is to protect agriculture and public health from intentional or unintentional release of genetically engineered biological articles into the environment.

Added by Laws 1990, c. 226, § 2, emerg. eff. May 17, 1990. Amended by Laws 2001, c. 146, § 117, emerg. eff. April 30, 2001. Renumbered from § 2012 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.

§2-11-37. Definitions.

As used in the Oklahoma Agriculture Biotechnology Act:

1. "Donor" means the organism from which genetic material is obtained for transfer to the recipient organism;

2. "Environment" means all of the land, air, and water and any organism that is living in association with these elements;

3. "Gene" means the unit of heredity within an organism;

4. "Genetic engineering" means the technology used to manipulate or alter an organism's genetic material through recombinant DNA or RNA techniques;

5. "Organisms" means any life stage form of microorganisms, viruses, plants, invertebrate animals, such as insects, or vertebrate animals, including livestock, which is capable of supplying genetic materials or affecting the genetic expression of another living entity;

6. "Permit" means a document issued by the Board authorizing a person to maintain, manipulate, and/or release a regulated article into the environment;

7. "Quarantine" means the isolation and/or safeguarding of an organism to prevent it from becoming established in the environment;

8. "Recombinant DNA or RNA" means hybrid molecules constructed outside or inside an organism by joining, deleting, or rearranging natural or synthetic DNA (deoxyribonucleic acid) or RNA (ribonucleic acid);

9. "Regulated article" means any organism altered or produced through genetic engineering;

10. "Release into the environment" means the use of a regulated article outside the constraints of physical confinement that are found in a laboratory, greenhouse, or a fermenter or other contained structure; and

11. "Vector or vector agent" means an organism or object used to transfer genetic material from the donor organism to the recipient organism.

Added by Laws 1990, c. 226, § 3, emerg. eff. May 17, 1990. Amended by Laws 2001, c. 146, § 118, emerg. eff. April 30, 2001. Renumbered from § 2013 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.

§2-11-38. Inspection of premises - Rules.

A. The State Department of Agriculture shall have the authority to inspect any premise within this state during regular business hours when the Department has reasonable grounds to believe that activity governed by the Oklahoma Agriculture Biotechnology Act is or may be occurring. This inspection shall be to determine if the provisions of the Oklahoma Agriculture Biotechnology Act are being carried out and the environment is being protected from the possibility of being contaminated by a regulated article.

B. The Board is authorized to promulgate rules needed for the control of regulated articles as authorized by the Oklahoma Agriculture Biotechnology Act. All rules shall be promulgated pursuant to the Administrative Procedures Act.

Added by Laws 1990, c. 226, § 4, emerg. eff. May 17, 1990. Amended by Laws 2001, c. 146, § 119, emerg. eff. April 30, 2001. Renumbered

from § 2014 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.

§2-11-39. Confidential business information - Trade secrets - Competitive harm.

A. In submitting information pursuant to the Oklahoma Agriculture Biotechnology Act, an applicant for a permit may designate as "confidential" any portions of the information that the applicant believes are entitled to treatment as confidential business information. A designation of confidentiality shall be made in writing and in a manner as the State Board of Agriculture may prescribe. Information designated as "confidential" may be submitted separately from other material submitted.

B. Information that would be protected from disclosure under the federal Freedom of Information Act will be classified as Confidential Business Information (CBI). This includes trade secrets and commercial or financial information found to be confidential.

C. Documents containing trade secrets which the person submitting asserts are trade secrets will be deemed CBI. "Trade secrets" means information relating to the production process. This includes production data, formulas, and processes and quality control tests and data, as well as research methodology and data generated in the development of the production process. This information must be:

1. Commercially valuable;
2. Used in one's business; and
3. Maintained in secrecy.

D. Documents containing commercial or financial information will be confidential if a review establishes that substantial competitive harm would result from disclosure. Information such as safety data, efficacy or potency data, and environmental data may be confidential information. Persons desiring protection for confidential information must submit a detailed statement containing facts to show that the person faces active competition in the area to which the information relates, and that substantial competitive harm would result from disclosure.

E. The applicant may withdraw the application at any time by providing written notice to the Board. If the application is withdrawn, all confidential business information shall be returned to the applicant and shall not be disclosed.

F. Except as provided in the Oklahoma Agriculture Biotechnology Act, no person shall reveal or use for a person's own benefit any confidential business information received pursuant to the Oklahoma Agriculture Biotechnology Act.

Added by Laws 1990, c. 226, § 5, emerg. eff. May 17, 1990. Amended by Laws 2001, c. 146, § 120, emerg. eff. April 30, 2001. Renumbered from § 2015 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.

§2-11-40. Permit - Exemption - Information required - Fee.

A. The State Board of Agriculture shall have the authority to issue, renew, deny, suspend, and revoke any permit issued according to the provisions of the Oklahoma Agriculture Biotechnology Act.

B. No person shall maintain a regulated article without a permit issued by the Board.

C. Any person who has filed Assurances of Compliance with federally established guidelines with his or her Institutional Biosafety Committee and/or applied for regulatory approval from the appropriate federal agency shall be exempt from the provisions of the Oklahoma Agriculture Biotechnology Act.

D. Any person not in compliance with a federal agency shall provide the Board with the following information prior to issuance of a permit pursuant to the Oklahoma Agriculture Biotechnology Act:

1. Name, title, address, telephone number, signature of the responsible person, and type of permit requested such as for importation, interstate movement, or release into the environment;

2. All scientific, common, and trade names, and all designations necessary to identify the: Donor organism; recipient organism; vector or vector agents; constituent of each regulated article which is a product; and regulated article;

3. Names, addresses, and telephone numbers of the persons who developed and/or supplied the regulated article;

4. A description of the means of movement, such as mail, common carrier, baggage, or if hand-carried, by whom;

5. A description of the anticipated or actual expression of the altered genetic material in the regulated article and how that expression differs from the expression in the nonmodified parental organism, including but not limited to morphological or structural characteristics, physiological activities and processes, number of copies of inserted genetic material, and the physical state of this material inside the recipient organism, integrated or extrachromosomal, products and secretions, growth characteristics;

6. A detailed description of the molecular biology of the system, such as donor-recipient-vector, which is or will be used to produce the regulated article;

7. Country and locality where the donor organism, recipient organism, vector or vector agent, and regulated article were collected, developed, and produced;

8. A detailed description of the purpose for the introduction of the regulated article including a detailed description of the proposed experimental and/or production design;

9. The quantity of the regulated article to be introduced and proposed schedule and number of introductions;

10. A detailed description of the processes, procedures, and safeguards which have been used or will be used in the country of

origin and in the United States to prevent contamination, release, and dissemination in the production of the: Donor organism; recipient organism; vector or vector agent; constituent of each regulated article which is a product; and regulated article;

11. A detailed description of the intended destination including final and all intermediate destinations, uses, and/or distribution of the regulated article, such as greenhouses, laboratory, or growth chamber location; field trial location; pilot project location; production, propagation, and manufacture location; proposed sale and distribution location;

12. A detailed description of the proposed procedures, processes, and safeguards which will be used to prevent escape and dissemination of the regulated article at each of the intended destinations;

13. A detailed description of any biological material, for example culture medium, or host material accompanying the regulated article during movement; and

14. A detailed description of the proposed method of final disposition of the regulated article.

E. Any person or their employees who is issued a permit shall comply with regulations established by the Board as are necessary to prevent the uncontrolled dissemination and establishment of a regulated article in the environment.

F. In accordance with the administration of the Oklahoma Agriculture Biotechnology Act, the Board is given the authority to charge the following fee schedule: A fee of One Hundred Dollars (\$100.00) shall be charged each person for a permit to develop, maintain, manipulate and/or release a regulated article. The fees shall be deposited in the State Department of Agriculture Revolving Fund.

Added by Laws 1990, c. 226, § 6, emerg. eff. May 17, 1990. Amended by Laws 2001, c. 146, § 121, emerg. eff. April 30, 2001. Renumbered from § 2016 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.

§2-11-41. Violations.

It shall be a violation of the Oklahoma Agriculture Biotechnology Act for any person not exempt from the provisions of the Oklahoma Agriculture Biotechnology Act to:

1. Maintain a regulated article without a permit from the State Board of Agriculture;
2. Move a regulated article without permission;
3. Release a regulated article into the environment without a permit;
4. Fail to comply with a quarantine or destruction order; and
5. Fail to pay a permit fee.

Added by Laws 1990, c. 226, § 7, emerg. eff. May 17, 1990. Amended by Laws 2001, c. 146, § 122, emerg. eff. April 30, 2001. Renumbered from § 2017 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.

§2-11-42. Penalties.

A. Any person violating the provisions of the Oklahoma Agriculture Biotechnology Act shall, upon conviction thereof, be guilty of a misdemeanor and may be punished by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00). For the purposes of this section, each day upon which a violation is committed or is permitted to continue shall be deemed a separate offense.

B. If, after public hearing in accordance with the Administrative Procedures Act, the State Board of Agriculture shall find any person to be in violation of any of the provisions of the Oklahoma Agriculture Biotechnology Act, the Board has the authority to assess, after notice and hearing, an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than One Thousand Dollars (\$1,000.00) for each violation. For the purpose of this section, each day upon which a violation is committed or is permitted to continue shall be deemed a separate offense.

Added by Laws 1990, c. 226, § 8, emerg. eff. May 17, 1990. Amended by Laws 2001, c. 146, § 123, emerg. eff. April 30, 2001. Renumbered from § 2018 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.

§2-11-80. Creation - Director - Appointment - Powers and duties.

A. There is created the Oklahoma Arboretum and Botanical Garden of Oklahoma, which shall be under the direction and supervision of the Board of Regents for the Oklahoma Agricultural and Mechanical Colleges.

B. The director shall be appointed by the Dean of the Division of Agriculture of Oklahoma State University and approved by the Board of Regents.

C. The Oklahoma Arboretum and Botanical Garden director shall:

1. Acquire, archive, process, and disseminate information on horticultural and botanical resources that is or could be of value to policy and decision makers in the state;

2. Act as a representative of the state in horticultural matters as pertains to agriculture, both within and outside the state, when necessary or appropriate or when requested to do so by proper authority, which shall include among others the legislative or executive branches of state government;

3. Conduct research, investigations, and interpretive programs pertaining to horticultural and botanical resources, including but not limited to, native woody plant and certain herbaceous plant

species distribution within the state, their relationships to each other and certain fauna and their environment as it pertains to agriculture;

4. Maintain plant inventories on or near the OSU campus and the respective associated sites including but not limited to the Tulsa Arboretum in natural or contrived ecosystems representing park and urban sites;

5. Establish a depository for preservation of live, native, and adaptive plant germplasm and as a distribution source of germplasm to cooperating affiliated arboretums, involved in plant evaluation, teaching, and research programs;

6. Maintain as a part of the statewide Arboretum plant collections representative but not restricted to the flora and plant communities of Oklahoma, which among other benefits will support research and investigative programs; and

7. Contract with persons to assist in training of students and the citizenry with respect to our native and introduced woody and herbaceous plant material and their importance to Oklahoma.

D. The establishment of the Oklahoma Arboretum and Botanical Garden shall in no way preclude or limit the research and educational activities concerning biological and botanical resources and natural or contrived areas by universities, colleges, or other government entities.

E. The director is authorized to certify copies as being authentic reproductions of arboretum resource records held in the state.

F. The director shall present a report each year to the Board of Regents for the Oklahoma Agricultural and Mechanical Colleges.

Added by Laws 1991, c. 44, § 1, eff. Sept. 1, 1991. Amended by Laws 2001, c. 146, § 124, emerg. eff. April 30, 2001. Renumbered from § 2021 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.

§2-11-90. Short title - Oklahoma Scrap Metal Dealers Act.

This act shall be known and may be cited as the "Oklahoma Scrap Metal Dealers Act".

Added by Laws 2008, c. 391, § 1, eff. Nov. 1, 2008. Renumbered from § 1421 of Title 59 by Laws 2014, c. 18, § 3, eff. Nov. 1, 2014.

§2-11-91. Definitions.

As used in the Oklahoma Scrap Metal Dealers Act:

1. "Aluminum material" means the metal aluminum or aluminum alloy or anything made of either aluminum or aluminum alloy, except aluminum beverage cans;

2. "Copper material" means the metal copper or copper alloy or anything made of either copper or copper alloy;

3. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry and its employees, officers and divisions;

4. "Exempted seller" means any person, firm, corporation or municipal corporation which constructs, operates or maintains electric distribution and transmission or communications facilities; or any person, firm or corporation that produces or otherwise acquires any scrap metal regulated by the provisions of the Oklahoma Scrap Metal Dealers Act in the normal course of business as:

- a. mechanical, electrical or plumbing contractor licensed to do business in this state,
- b. scrap metal dealer (Standard Industrial Classification Codes 5051 or 5093), licensed pursuant to the provisions of the Oklahoma Scrap Metal Dealers Act,
- c. holder of a farm-use tax permit,
- d. manufacturer,
- e. distributor, or
- f. retailer;

5. "License" means a scrap metal dealer license;

6. "Scrap metal" means any copper material or aluminum material or any item listed in Section 1424 of this title, offered for sale or resale or purchased by any person, firm or corporation;

7. "Scrap metal dealer" means any person, firm or corporation being an owner, keeper or proprietor of a retail or wholesale business which buys, sells, salvages, processes or otherwise handles scrap metal materials regulated by the provisions of the Oklahoma Scrap Metal Dealers Act; and

8. "Yard" means the place where any scrap metal dealer stores scrap metal materials or keeps such materials for purpose of sale. Added by Laws 2008, c. 391, § 2, eff. Nov. 1, 2008. Amended by Laws 2013, c. 230, § 2, eff. Nov. 1, 2013. Renumbered from § 1422 of Title 59 by Laws 2014, c. 18, § 4, eff. Nov. 1, 2014.

§2-11-92. Records of data - Holding period - Unlawful activities - Declaration of ownership - Vehicle purchase.

A. Every scrap metal dealer shall keep a separate book, record or other electronic system as authorized by the Oklahoma Scrap Metal Dealers Act, to record and maintain the following data from any seller of any amount of scrap metal as defined by the Oklahoma Scrap Metal Dealers Act:

1. A legible photocopy of the seller's driver license or government provided photo identification, issued by the United States government, State of Oklahoma, or any other state of the United States, that contains his or her name, address, date of birth, weight and height;

2. Vehicle description and license tag number of the seller if the vehicle was used to transport the material being sold;

3. Date and place of the transaction and the transaction number as provided by the scrap metal dealer;
 4. Description of the items sold and weight of the items as required by the provisions of the Oklahoma Scrap Metal Dealers Act;
 5. Whether the scrap metal is in wire, cable, bar, rod, sheet or tube form;
 6. If any insulation is on the scrap metal, the names and addresses of the persons, groups or corporations from whom seller purchased or obtained the materials; and
 7. If apparent on the scrap metal, the name of the manufacturer and serial number of each item of scrap metal.
- B. Municipalities or other political subdivisions may designate the reporting methods and the format of the information required by subsection A of this section, either written, electronic or Internet-based. The Oklahoma Department of Agriculture, Food, and Forestry shall designate an Internet-based reporting method that applies to all geographic areas of the state that are not subject to a local designation for Internet reporting.
- C. Records required by this section shall be made available at any time to any person authorized by law for such inspection.
- D. Purchases of thirty-five (35) pounds or more of scrap metal containing a manufacturer's serial number or other unique label or mark shall be held separate and apart so that the purchased scrap metal may be readily identifiable from all other purchases for a period of not less than ten (10) days from the date of purchase. During the holding period the scrap metal dealer may not change the form of the purchased scrap metal and shall permit any person authorized by law to make inspection of such materials.
- E. Purchases of thirty-five (35) pounds or more of scrap metal which does not contain a manufacturer's serial number or other unique label or mark shall either be held for the same time and in the same manner as required by subsection D of this section; or in the alternative, the scrap metal dealer shall be required to obtain a digital image of the items purchased, the seller of the items, a copy of the bill of sale and a copy of the seller's photo identification. The digital image shall contain a depiction that clearly identifies the seller and the items sold and is captured in the common JPEG format. The digital image shall be retained by the purchaser for a minimum of ninety (90) days from the date of purchase. For the purpose of this section a "digital image" means a raster-based two-dimensional, rectangular array of static data elements called pixels, intended for display on a computer monitor or for transformation into another format, such as a printed page.
- F. No purchase of any amount of scrap metal from an exempted seller, as defined by Section 11-91 of this title, shall be subject to any holding period or digital imaging identification required by subsection D or E of this section.

G. It shall be unlawful for any person to sell or purchase copper material or copper wire from which the actual or apparent insulation or other coating has been burned, melted or exposed to heat or fire resulting in melting some or all of the insulation or coating. It shall be unlawful for any person to sell or purchase copper wire that is four-gauge or larger in size. This subsection shall not apply to sales by or purchases from an exempted seller as defined by Section 11-91 of this title. Documentation of exempt seller status shall be provided to the scrap metal dealer and, if requested by a law enforcement agency where the purchase was made, shall be transmitted to the law enforcement agency and may be kept as permanent record and made available for public inspection.

H. It shall be unlawful for any scrap metal dealer to purchase any item from a minor without having first obtained the consent, in writing, of a parent or guardian of such minor. Such written consent shall be kept with the book, record or other electronic recording system required by subsection A of this section and, if requested by a law enforcement agency where the purchase was made, shall be transmitted to the law enforcement agency and may be kept as a permanent record and made available for public inspection.

I. A scrap metal dealer shall obtain from each seller of a scrap metal item regulated by the Oklahoma Scrap Metal Dealers Act, or a parent or guardian on behalf of a minor, a written declaration of ownership containing a legible signature of the seller. The declaration of ownership shall be in the following form and shall appear on the bill of sale or transaction ticket to be completed by the seller in the presence of the purchaser at the time of the transaction:

"I hereby affirm under penalty of prosecution that I am the rightful owner of the hereon described merchandise; or I am an authorized representative of the rightful owner and affirm that I have been given authority by the rightful owner to sell the hereon described merchandise.

Signature"

J. If requested by a law enforcement agency, a scrap metal dealer shall report in writing all purchases of scrap metal as defined by the Oklahoma Scrap Metal Dealers Act within forty-eight (48) hours following such purchase. The report shall contain all the information required by this section.

K. A scrap metal dealer purchasing a vehicle from any person shall be required to record the information required in subsection A of this section and the make, model, license tag number and vehicle identification number of the purchased vehicle. A person selling a vehicle to a scrap metal dealer shall be required to present to the dealer the title of the vehicle or a certificate of ownership form, as approved by the Oklahoma Tax Commission and available at the

Oklahoma Tax Commission or through a motor license agent, in addition to signing a declaration of ownership as required by subsection I of this section. The scrap metal dealer shall not provide payment for the vehicle until the certificate of ownership has been submitted to the Oklahoma Tax Commission or a motor license agent, and the vehicle is determined not to be stolen. The provisions of this subsection shall not apply to sales, purchases or other transfer of vehicles between scrap metal dealers and licensed automotive dismantlers and parts recyclers.

L. The provisions of the Oklahoma Scrap Metal Dealers Act shall not apply to the sale or purchase of aluminum beverage cans for recycling purposes.

M. A scrap metal dealer shall not enter into any cash transactions in excess of One Thousand Dollars (\$1,000.00) in payment for the purchase of scrap metal that is listed in subsection B of Section 11-93 of this title unless the transaction is made with an exempted seller. Payment by check shall be issued and made payable only to the seller of the scrap metal whose identification information has been obtained pursuant to the provisions of this section.

Added by Laws 2008, c. 391, § 3, eff. Nov. 1, 2008. Amended by Laws 2013, c. 230, § 3, eff. Nov. 1, 2013. Renumbered from § 1423 of Title 59 by Laws 2014, c. 18, § 5, eff. Nov. 1, 2014. Amended by Laws 2016, c. 101, § 1, eff. Nov. 1, 2016; Laws 2017, c. 42, § 1; Laws 2018, c. 23, § 1, eff. Nov. 1, 2018.

NOTE: Laws 2016, c. 133, § 1 repealed by Laws 2017, c. 42, § 2.

§2-11-93. Items not to be purchased - Items regulated.

A. Scrap metal dealers permitted to do business in this state as required by the Oklahoma Scrap Metal Dealers Act shall not purchase any item listed in subsection B of this section without:

1. Obtaining proof that the seller owns or is authorized to sell the property, by evidence of a receipt of purchase or a bill of sale for the property; and

2. Requiring the seller to sign a written declaration in the form required by subsection I of Section 3 of this act; or

3. Obtaining proof that the seller is an exempted seller or an employee of an exempted seller, as defined in Section 2 of this act.

B. The following items are regulated by the provisions of this act:

1. Manhole covers, street signs, traffic signs, traffic signals including their fixtures and hardware, or any other identifiable public property;

2. Electric light poles, including their fixtures and hardware, electric transmission or distribution cable and wires, and any other hardware associated with electric utility or telecommunication systems;

3. Highway guard rails;
 4. Funeral markers, plaques or funeral vases;
 5. Historical markers or public artifacts;
 6. Railroad equipment;
 7. Any metal item marked with any form of the name, initials or logo of a governmental entity, utility, cemetery or railroad;
 8. Condensing or evaporating coil from a heating or air conditioning unit;
 9. Aluminum or stainless steel containers or bottles designed to contain fuel;
 10. Metal beer kegs that are clearly marked as being the property of the beer manufacturer;
 11. Metal bleachers or other seating facilities used in recreational areas or sporting arenas;
 12. Automotive catalytic converters;
 13. Plumbing or electrical fixtures;
 14. Tools;
 15. Machinery or supplies commonly used in the drilling, completing, operating or repairing of oil or gas wells; and
 16. Stainless steel fittings and fixtures commonly used in the operation of car wash facilities.
- Added by Laws 2008, c. 391, § 4, eff. Nov. 1, 2008. Renumbered from § 1424 of Title 59 by Laws 2014, c. 18, § 6, eff. Nov. 1, 2014.

§2-11-94. Violations, penalties - Operating without sales tax permit - Knowingly providing false information - Burnt copper material - Violations reported - Revocation of permit.

A. Any person found in violation of any provision of the Oklahoma Scrap Metal Dealers Act, with the exceptions as provided by subsections B, C and D of this section, shall, upon conviction, be guilty of a misdemeanor and punished by a fine of not more than Two Thousand Five Hundred Dollars (\$2,500.00) per offense. Any person convicted of a second violation of the Oklahoma Scrap Metal Dealers Act shall be guilty of a misdemeanor and punished by a fine of not more than Five Thousand Dollars (\$5,000.00) per offense or by imprisonment in the county jail for a period of not more than six (6) months. Any person convicted of a third or subsequent violation of the Oklahoma Scrap Metal Dealers Act shall be guilty of a felony punishable by a fine of not more than Ten Thousand Dollars (\$10,000.00) per offense or by imprisonment in the custody of the Department of Corrections for a period of not more than two (2) years, or by both such fine and imprisonment.

B. Any person acting as a scrap metal dealer without a scrap metal dealer license or a sales tax permit as required by the Oklahoma Scrap Metal Dealers Act shall, upon conviction, be guilty of a misdemeanor and punished by a fine of not more than Five Hundred Dollars (\$500.00); provided, that each day of operation in violation

of the Oklahoma Scrap Metal Dealers Act shall constitute a separate offense.

C. Any person who knowingly provides false information with respect to the provisions of subsection I of Section 1423 of this title shall, upon conviction, be guilty of a felony and punished by a fine of Five Thousand Dollars (\$5,000.00), or by imprisonment in the custody of the Department of Corrections for a period of not more than two (2) years, or by both such fine and imprisonment.

D. Any person convicted of purchasing or selling burnt copper material or copper wire as prohibited by subsection G of Section 1423 of this title shall, upon first conviction, be guilty of a misdemeanor and punished by a fine of Two Thousand Five Hundred Dollars (\$2,500.00). Any person convicted of a second or subsequent violation shall be guilty of a felony punishable by a fine of Five Thousand Dollars (\$5,000.00), or by imprisonment in the custody of the Department of Corrections for a period of not more than two (2) years, or by both such fine and imprisonment.

E. Each scrap metal dealer convicted of a violation of the Oklahoma Scrap Metal Dealers Act shall be reported to the Oklahoma Tax Commission by the clerk of the court rendering such verdict.

F. The Tax Commission shall revoke the sales tax permit of any person convicted of three separate violations of the Oklahoma Scrap Metal Dealers Act. The person shall not be eligible to receive a sales tax permit for such purpose for a period of one (1) year following the revocation. The revocation procedure shall be subject to notice and hearing as required by Section 1426 of this title. Added by Laws 2008, c. 391, § 5, eff. Nov. 1, 2008. Amended by Laws 2013, c. 230, § 4, eff. Nov. 1, 2013. Renumbered from § 1425 of Title 59 by Laws 2014, c. 18, § 7, eff. Nov. 1, 2014.

§2-11-95. Revocation or suspension of permits - Injunction against dealers - Appeal bond.

A. Any sales tax permit, issued pursuant to Section 1364 of Title 68 of the Oklahoma Statutes, to any scrap metal dealer who violates any of the provisions of this act relating to the purchase of copper or aluminum materials or any scrap metal regulated by this act, may be canceled or suspended for a period not to exceed thirty (30) days by the Oklahoma Tax Commission. The Tax Commission may refuse the issuance of or extension or reinstatement of any permit where the applicant or holder of the permit shall have violated any provisions of this act or existing laws. Such cancellation or refusal shall be mandatory as to any scrap metal dealer having been convicted of three separate violations of this act. However, before the Tax Commission may cancel or suspend any permit or refuse the issuance, reinstatement or extension thereof, the Tax Commission shall give each holder of a permit or applicant ten (10) days' notice of a hearing before the Tax Commission, granting such person an

opportunity to show cause why such action should not be taken. Upon notice given to any scrap metal dealer by the Tax Commission of its intention to cancel or suspend any permit or to refuse the issuance, reinstatement or extension thereof, the Tax Commission shall have the authority to enter its order suspending such permit or prohibiting the applicant from doing business without a permit pending the final hearing before it as provided for in this section.

B. 1. After notice of the order of suspension or prohibition from doing business, it shall be unlawful for the scrap metal dealer to further engage in the business of a scrap metal dealer, as defined herein. In the event any such person shall conduct or at any time continue such unlawful operation, after notice of suspension or prohibition from doing business, the Tax Commission may institute or cause to be brought against such person or persons proceedings for injunction in any court of competent jurisdiction to enjoin and restrain such person or persons from doing business pending the order of the Tax Commission.

2. Upon cancellation of a permit by the Tax Commission, no new permit shall be issued to such dealer or any firm, corporation or other legal entity under his or her direct or indirect control or association, for a period of one (1) year from the date of cancellation.

3. In all cases where proceedings are brought for injunction under this act, no bond for injunction shall be required and in all such cases, after notice of suspension has been given, no further notice shall be required before the issuance of a temporary restraining order on any proceeding for injunction.

C. If an appeal is taken from the order of the Tax Commission issued pursuant to this section, the scrap metal dealer, in order to conduct business as a scrap metal dealer pending outcome of the appeal, shall be required to post a bond in the amount of Five Thousand Dollars (\$5,000.00).

Added by Laws 1967, c. 257, § 3, emerg. eff. May 8, 1967. Amended by Laws 1990, c. 139, § 4, emerg. eff. May 1, 1990; Laws 1997, c. 205, § 3, eff. Nov. 1, 1997; Laws 2008, c. 391, § 6, eff. Nov. 1, 2008. Renumbered from § 1403 of Title 59 by Laws 2008, c. 391, § 10, eff. Nov. 1, 2008. Renumbered from § 1426 of Title 59 by Laws 2014, c. 18, § 8, eff. Nov. 1, 2014.

§2-11-96. Sales tax permit required.

A. Any person, firm or corporation desiring to become a scrap metal dealer shall be required to obtain a sales tax permit as provided by Section 1364 of Title 68 of the Oklahoma Statutes, from the Oklahoma Tax Commission, for each scrap metal yard owned or operated by such person, firm or corporation.

B. The Tax Commission shall maintain a list of scrap metal dealers to whom sales tax permits have been issued and such list shall be made available for public inspection.

C. The Tax Commission shall not deny any person, firm or corporation desiring a sales tax permit for the purpose of scrap metal dealing due to insufficient quantity or dollar value of sales necessary to warrant such permit.

D. The Tax Commission is authorized to promulgate any rules necessary to implement the provisions of this act.

Added by Laws 2008, c. 391, § 7, eff. Nov. 1, 2008. Renumbered from § 1427 of Title 59 by Laws 2014, c. 18, § 9, eff. Nov. 1, 2014.

§2-11-97. Scrap metal dealer license.

A person shall not advertise, act, offer to act, hold himself or herself out, or engage in business as a scrap metal dealer in this state without a scrap metal dealer license issued by the Oklahoma Department of Agriculture, Food, and Forestry.

Added by Laws 2013, c. 230, § 5, eff. Nov. 1, 2013. Amended by Laws 2014, c. 18, § 1, eff. Nov. 1, 2014. Renumbered from § 1428 of Title 59 by Laws 2014, c. 18, § 10, eff. Nov. 1, 2014.

§2-11-98. License application.

A. An applicant for a license to engage in business as a scrap metal dealer shall provide all of the following information on the license application:

1. If the applicant is an individual, the full name and place of residence of the applicant;

2. If the applicant is a firm, corporation or other legal entity, the full name, place of residence, and the position of the individual filing the application on behalf of the entity;

3. The business address of the location where the scrap metal dealer conducts business or will conduct business as a scrap metal dealer;

4. Legal proof of ownership, lease agreement or contract for the business location;

5. Proof of a dedicated telephone line for the business location;

6. Proof of a general liability insurance policy for the business location;

7. Proof of a current discharge permit issued pursuant to the provisions of the Oklahoma Pollutant Discharge Elimination System Act;

8. Whether the person has been previously convicted of, or pled guilty or nolo contendere to any felony or to a misdemeanor involving moral turpitude or dishonesty; and

9. Any other additional information that will sufficiently enable the Oklahoma Department of Agriculture, Food, and Forestry to

determine if the scrap metal dealer is prohibited from being issued a license.

B. The Department may conduct any reasonable inquiry or investigation relative to the determination of the fitness of the applicant to be licensed or continue to be licensed including, but not limited to, requiring a national criminal history record check as provided in Section 150.9 of Title 74 of the Oklahoma Statutes.

C. The Department shall charge an application fee in the amount of One Hundred Dollars (\$100.00) for processing an initial application for a scrap metal dealer license. The Department shall also charge an investigative fee of One Hundred Dollars (\$100.00) to be used for the purpose of conducting an investigation of the applicant. All fees shall be nonrefundable.

D. In addition to the application, each applicant shall submit a full set of fingerprints and a photograph with each application for an original license. The fingerprints shall be used for a national criminal history record check as provided for in subsection B of this section. The applicant shall be required to pay for fingerprints, photographs and the national criminal history records check required for licensure and renewals.

E. If the results of the investigation of the applicant show no prohibition to granting a license, the Department shall issue the scrap metal dealer license. The scrap metal dealer license shall be valid for a period of one (1) year unless otherwise voluntarily surrendered, suspended or revoked by the Department.

F. A scrap metal dealer license issued pursuant to the provisions of this act is valid for the conduct of business as a scrap metal dealer only at the location specified in the application. A separate scrap metal dealer license shall be required for each location specified in the application form and each license shall designate the location to which it applies. The business of the scrap metal dealer shall not be conducted in any place other than that designated by the license. The scrap metal dealer license shall not be transferable.

G. The Department shall deny the license when the applicant fails to properly complete the application form or if it is determined that the applicant is not eligible to receive a scrap metal dealer license.

H. A scrap metal dealer license may be renewed any time within sixty (60) days prior to the expiration date of the license. To renew a scrap metal dealer license, the licensee must first obtain a renewal form from the Department. The licensee must complete the renewal form and submit a renewal fee in the amount of One Hundred Dollars (\$100.00) to the Department. Upon receipt of the renewal application and fee, the Department shall conduct a national criminal history record check and investigate any other records or information deemed by the Department to be relevant to the renewal of the scrap

metal dealer license. If the licensee appears not to have any prohibition to renewing the scrap metal dealer license, the Department shall issue the renewed license for a period of one (1) year.

I. The Oklahoma Department of Agriculture, Food, and Forestry shall promulgate rules, procedures and forms governing the application and renewal procedures for scrap metal dealer licenses. Added by Laws 2013, c. 230, § 6, eff. Nov. 1, 2013. Renumbered from § 1429 of Title 59 by Laws 2014, c. 18, § 11, eff. Nov. 1, 2014.

§2-11-99. Cancellation, revocation and reissuance of license - Penalties.

A. The Oklahoma Department of Agriculture, Food, and Forestry may suspend, cancel, revoke, or refuse reissuance of a scrap metal dealer license after the person has an opportunity for public hearing pursuant to the Administrative Procedures Act for any of the following causes:

1. Engages in fraud or deceit in obtaining or renewing a license;
2. Acts as a scrap metal dealer in this state without a license;
3. Aids or abets another person in acting as a scrap metal dealer without a license; or
4. Violates any of the provisions of the Oklahoma Scrap Metal Dealers Act.

B. After notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the Department finds any person in violation of the Oklahoma Scrap Metal Dealers Act or any rule promulgated or order issued pursuant thereto, the Department 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 action or each day a violation continues may constitute a separate and distinct violation.

C. In addition to penalties and fines, the Department shall have authority to apply to district court and obtain a temporary or permanent injunction against anyone who violates the Oklahoma Scrap Metal Dealers Act and shall have authority to obtain or impose civil monetary penalties on anyone who violates the Oklahoma Scrap Metal Dealers Act.

D. Nothing in the Oklahoma Scrap Metal Dealers Act shall preclude the Department from seeking penalties in district court in the maximum amount allowed by law. The assessment of penalties in an administrative enforcement proceeding shall not prevent the subsequent assessment by a court of the maximum civil or criminal penalties for violations of the Oklahoma Scrap Metal Dealers Act and rules promulgated pursuant thereto.

E. Any person assessed an administrative or civil penalty may be required to pay, in addition to the penalty amount and interest

thereon, attorney fees and costs associated with the collection of the penalties.

F. If any person refuses, denies or interferes with any right of access, the Department shall have the right to apply to and obtain from a district court an administrative or other warrant as necessary to enforce the right of access and inspection.

G. If the Department finds any person operating as a scrap metal dealer without a license, the Department shall have the authority to tag as "Not For Commercial Use" any weight or measure utilized by the scrap metal dealer.

Added by Laws 2013, c. 230, § 7, eff. Nov. 1, 2013. Amended by Laws 2014, c. 18, § 2, eff. Nov. 1, 2014. Renumbered from § 1430 of Title 59 by Laws 2014, c. 18, § 12, eff. Nov. 1, 2014.

§2-12-1. Written agreement with U.S. Department of Agriculture Wildlife Services - Wildlife damage management.

A. The Oklahoma Department of Agriculture, Food, and Forestry shall enter into a written agreement on behalf of the State of Oklahoma with the United States Department of Agriculture Wildlife Services. The agreement shall be for the purpose of cooperating with Wildlife Services in conducting wildlife damage management for beavers, coyotes, bobcats, feral swine, and other wildlife or invasive species causing destruction to livestock, poultry, crops, range land, forests, and other resources, including human health and safety.

B. Wildlife damage management of predatory animals and other species causing damage shall include but not be limited to hunting, trapping, or other practical methods for the control of damage to resources. Operations shall be directly supervised by the United States Department of Agriculture Wildlife Services in association with the Department. The Department is authorized to enter into cooperative agreements with counties, associations, corporations, and individuals for hunting and trapping operations and control of wildlife damage.

C. In cooperation with Wildlife Services, the Department is authorized to purchase animal damage management supplies, including but not limited to bait, for cooperating governmental agencies, counties, associations, corporations, and individuals for the control of damage caused by predatory animals and other species. The Department shall make these supplies and baits available to cooperators at approximate cost. The receipts from the sale of supplies and baits shall be credited to the State Department of Agriculture Revolving Fund.

D. Furs, skins, specimens or other parts or byproducts of commercial value collected by Wildlife Services agents shall be sold upon sealed bids after advertisement of the sales, as prescribed by the Department. The proceeds of all sales shall be credited to the

State Department of Agriculture Revolving Fund. Any specimen may be presented, free of charge, to any state institution subject to the jurisdiction and control of the State of Oklahoma. No bounty shall be collected from any source for predatory animals and wildlife taken by Wildlife Services agents operating pursuant to a cooperative agreement.

Added by Laws 1963, c. 173, § 1, emerg. eff. June 7, 1963. Amended by Laws 1983, c. 242, § 10, operative July 1, 1983; Laws 2000, c. 243, § 114, emerg. eff. May 24, 2000; Laws 2017, c. 57, § 1, eff. Nov. 1, 2017.

§2-12-2. Agents authorized to carry firearms.

It shall be lawful for an authorized agent of the State Board of Agriculture engaged in wildlife damage management, pursuant to the provisions of Section 12-1 of this title, to carry firearms in the course of his or her official duties. Authorized agents shall successfully pass a background check by the Oklahoma Department of Agriculture, Food, and Forestry and be trained in accordance with United States Department of Agriculture Wildlife Services guidelines for the use of firearms in wildlife damage management.

The names of agents authorized by the Board to carry firearms shall be furnished to the Oklahoma Department of Public Safety. Added by Laws 1983, c. 34, § 1, emerg. eff. April 20, 1983. Amended by Laws 2000, c. 243, § 115, emerg. eff. May 24, 2000; Laws 2017, c. 57, § 2, eff. Nov. 1, 2017.

§2-12-3. Repealed by Laws 2000, c. 243, § 125, emerg. eff. May 24, 2000.

§2-13-1. Statutes as part of code.

All statutes of Title 2 currently in effect and which are hereafter enacted shall be considered and deemed part of the Oklahoma Agricultural Code.

Laws 1980, c. 7, § 4, emerg. eff. March 3, 1980.

§2-14-1. Bureau of Standards established.

There shall be established a State Bureau of Standards of weights, measures, and tests of all kinds. This Bureau shall be a part of the Oklahoma Department of Agriculture, Food, and Forestry, which shall provide facilities for its use. The Director of Laboratory Services shall act as Director of the Bureau of Standards .

Added by Laws 1915, c. 81, § 1. Amended by Laws 1971, c. 84, § 1, emerg. eff. April 16, 1971; Laws 2000, c. 243, § 118, emerg. eff. May 24, 2000. Renumbered from § 1 of Title 83 by Laws 2001, c. 146, § 249, emerg. eff. April 30, 2001. Amended by Laws 2013, c. 118, § 3, eff. Nov. 1, 2013.

§2-14-2. Standards and methods.

The Director of the Bureau of Standards shall have charge of the various standards of weights, measures, and testing devices received by this state from the United States pursuant to Resolutions of Congress approved June 14, 1836, and July 27, 1866, and any future standards which may be received from the United States. The Director shall have charge of the various state or office standards purchased by this state for the Bureau.

The Director shall have charge and control of the standard methods of weighing, measuring, and testing in this state. The Director shall maintain the standards in good order and shall submit a set of standards called the reference standards to the National Institute of Standards and Technology (NIST) for certification. Added by Laws 1915, c. 81, § 3. Amended by Laws 1983, c. 65, § 1, eff. Nov. 1, 1983; Laws 2000, c. 243, § 119, emerg. eff. May 24, 2000. Renumbered from § 3 of Title 83 by Laws 2001, c. 146, § 249, emerg. eff. April 30, 2001. Amended by Laws 2013, c. 118, § 4, eff. Nov. 1, 2013.

§2-14-3. State standards.

The weights, measures, and testing devices received from the United States pursuant to Joint Resolutions of Congress approved June 14, 1836, and July 27, 1866, now in the care and custody of the State Bureau of Standards, and the weights and measures in conformity with the Resolutions, when certified by the National Institute of Standards and Technology (NIST), shall be the state standards of weights and measures. Copies of the state standards of weights and measures and other weights, measures, and apparatus shall be supplied by this state to implement the provisions of this article. Added by Laws 1949, p. 646, § 1. Amended by Laws 1983, c. 65, § 2, eff. Nov. 1, 1983; Laws 2000, c. 243, § 120, emerg. eff. May 24, 2000. Renumbered from § 3.1 of Title 83 by Laws 2001, c. 146, § 249, emerg. eff. April 30, 2001.

§2-14-4. General control - Seal.

The Bureau of Standards shall be available to all state departments, municipal and private corporations, and citizens of this state. The Bureau shall be the highest official authority with regard to standards of weights, measures, and testing devices, and methods of weighing, measuring, and testing for this state. The findings of the Bureau of Standards in any case or question shall be considered prima facie evidence of the correctness of the case or question. All officers enforcing the standards for weights, measures, and testing devices in this state shall submit their weighing, measuring, and testing devices to the State Bureau of

Standards at those periods determined by the Director of the Bureau of Standards for certification and seal.

Added by Laws 1915, c. 81, § 4. Amended by Laws 1983, c. 65, § 3, eff. Nov. 1, 1983; Laws 2000, c. 243, § 121, emerg. eff. May 24, 2000. Renumbered from § 4 of Title 83 by Laws 2001, c. 146, § 249, emerg. eff. April 30, 2001. Amended by Laws 2013, c. 118, § 5, eff. Nov. 1, 2013.

§2-14-5. Fees.

The State Board of Agriculture shall establish fees for all tests and certifications made by the Bureau of Standards. The fees shall in no case exceed those established for similar work by the National Institute of Standards and Technology. The fees collected shall be deposited with the State Treasurer in the State Department of Agriculture Revolving Fund.

Added by Laws 1915, c. 81, § 5. Amended by Laws 1971, c. 84, § 3, emerg. eff. April 16, 1971; Laws 2000, c. 243, § 122, emerg. eff. May 24, 2000. Renumbered from § 5 of Title 83 by Laws 2001, c. 146, § 249, emerg. eff. April 30, 2001. Amended by Laws 2013, c. 118, § 6, eff. Nov. 1, 2013.

§2-14-6. Information.

The Bureau of Standards shall provide information for general distribution, literature, and directions regarding weights, measures and tests, and methods of weighing, measuring, and testing as recommended by the Director of the Bureau of Standards.

Added by Laws 1915, c. 81, § 6. Amended by Laws 1971, c. 84, § 4, emerg. eff. April 16, 1971; Laws 2000, c. 243, § 123, emerg. eff. May 24, 2000. Renumbered from § 6 of Title 83 by Laws 2001, c. 146, § 249, emerg. eff. April 30, 2001. Amended by Laws 2013, c. 118, § 7, eff. Nov. 1, 2013.

§2-14-7. Legislative intent.

It is declared to be the intent of this Legislature that the State Department of Agriculture administer this article in a manner which will provide protection for consumers of those goods and services which can be accurately measured, improve the quality and safety of the products produced in this state, and provide the assurance to the people of this state and others that manufactured products are what they claim to be.

Added by Laws 1974, c. 84, § 1, emerg. eff. April 19, 1974. Amended by Laws 2000, c. 243, § 124, emerg. eff. May 24, 2000. Renumbered from § 8 of Title 83 by Laws 2001, c. 146, § 249, emerg. eff. April 30, 2001.

§2-14-31. Definitions

As used in this article:

1. "Correct" means conformance to all applicable requirements of this article;

2. "Field standard" means the physical standards which are traceable to the reference standards through comparisons, using acceptable laboratory procedures, and used in the enforcement of weights and measures laws and rules;

3. "National Conference on Weights and Measures, Inc. (NCWM)" means the national professional organization composed of regulatory officials, industry representatives, and individuals having an interest in weights and measures that develop consensus standards in areas of weighing and measuring device regulation, commodity regulation, and administration of regulatory weights and measures program;

4. "National Institute of Standards and Technology (NIST)" means that subdivision of the United States Department of Commerce responsible for maintaining the standard weights and measures of the United States;

5. "Package" means any commodity put up or uniformly wrapped or sealed in advance of sale in units suitable for either wholesale or retail sale;

6. "Reference standards" means the physical standards of the state which serve as the legal reference from which all other standards and weights and measures are derived;

7. "Sale from bulk" means the sale of commodities when the quantity is determined at the time of sale; and

8. "Weights or measures" means all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliance and accessories associated with any instruments and devices. "Weight" used in connection with any commodity means net weight.

Added by Laws 1976, c. 108, § 1, emerg. eff. May 12, 1976. Amended by Laws 2000, c. 243, § 54, emerg. eff. May 24, 2000. Renumbered from § 5-61a of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-14-32. Customary use and metric system

A. The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized. Either one or both of these systems shall be used for all commercial purposes in the state.

B. The definitions of basic units of weight and measure, the tables of weight and measure, and weights and measures equivalents as published by the National Conference on Weights and Measures are recognized and shall govern weighing and measuring equipment and transactions in the state.

Added by Laws 1976, c. 108, § 2, emerg. eff. May 12, 1976. Amended by Laws 2000, c. 243, § 55, emerg. eff. May 24, 2000. Renumbered

from § 5-61b of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-14-33. State primary and secondary standards.

Weights and measures that are traceable to the United States prototype standards supplied by the federal government or approved by the National Institute of Standards and Technology shall be the state reference standards of weights and measures and shall be maintained in the calibration prescribed by the National Institute of Standards and Technology. All field standards may be prescribed by the State Board of Agriculture and shall be verified upon their initial receipt and as required by the Board.

Added by Laws 1976, c. 108, § 3, emerg. eff. May 12, 1976. Amended by Laws 2000, c. 243, § 56, emerg. eff. May 24, 2000. Renumbered from § 5-61c of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-14-34. Commercial and regulatory weighing and measuring devices.

The specifications, tolerances and other technical requirements for commercial and regulatory weighing and measuring devices as adopted by the National Conference on Weights and Measures and published in National Bureau of Standards Handbook 44,

"Specifications, Tolerances and Other Technical Requirements for Commercial Weighing and Measuring Devices," and supplements thereto or revisions thereof shall apply to commercial and regulatory weighing and measuring devices in the state, except insofar as modified or rejected by regulation.

Added by Laws 1976, c. 108, § 4, emerg. eff. May 12, 1976. Amended by Laws 1987, c. 68, § 1, eff. July 1, 1987; Laws 2000, c. 243, § 57, emerg. eff. May 24, 2000. Renumbered from § 5-61d of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-14-35. Board - Powers and duties conforming to National Institute of Standards and Technology Handbook.

The State Board of Agriculture shall have the following powers and duties:

1. Maintain traceability of the state standards to the National Institute of Standards and Technology and adopt standard weights and measures for products in conformity with federal standards for use as the standard for weighing and measuring products in Oklahoma;

2. Ensure that all rules conform as nearly as practicable to the uniform regulations adopted by the National Conference on Weights and Measures and published in the National Institute of Standards and Technology Handbook 130, "Uniform Laws and Regulations", including all supplements and revisions thereof;

3. Establish requirements for labeling, for the presentation of cost-per-unit information, for standards of weight, measure, or

count, and for standards of fill for any packaged commodity. The Board may establish requirements for open dating information;

4. Conduct investigations to ensure compliance with this article;

5. Inspect and test weights and measures kept, offered, or exposed for sale;

6. Inspect and test to ascertain if the weights and measures commercially used are correct by:

- a. determining the weight, measure, or count of commodities or things sold, offered, or exposed for sale on the basis of weight, measure, or count, or
- b. by computing the basic charge or payment for services rendered on the basis of weight, measure, or count;

7. Approve for use weights and measures found to be correct and reject and mark as rejected weights and measures found to be incorrect. Approved weights and measures may be marked as approved. Weights and measures that have been rejected may be seized if not corrected within the time specified or if used or disposed of in a manner not specifically authorized. The Board shall condemn and may seize weights and measures found to be incorrect that are not capable of being made correct;

8. Weigh, measure, or inspect packaged commodities kept, offered or exposed for sale, sold or in the process of delivery, to determine whether they contain the amounts represented and are in accordance with this article and rules of the Board. The Board shall use recognized sampling procedures adopted by the National Conference on Weights and Measures and published in the National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods" and supplements and revisions;

9. If a method of declaring the quantity of a specific commodity by weight, measure, numerical count, or combination does not facilitate value comparisons by consumers or offers an opportunity for consumer confusion, an appropriate term or unit of weight or measure may be prescribed;

10. Allow reasonable variations from the stated quantity of contents, including but not limited to those caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice only after the commodity has entered intrastate commerce;

11. Set standards for inspection by rule for circumstances not addressed by the National Institute of Standards and Technology Handbook 130, "Uniform Laws and Regulations" and the National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods";

12. Promulgate rules for the enforcement of the National Institute of Standards and Technology Handbook Number 130, "Uniform Laws and Regulations," the National Institute of Standards and

Technology Handbook 133, "Checking the Net Contents of Packaged Goods, and the act; and

13. Enforce the provisions of Sections 14-31 through 14-43 of this title and rules promulgated thereto.

Added by Laws 1976, c. 108, § 5, emerg. eff. May 12, 1976. Amended by Laws 1987, c. 68, § 2, eff. July 1, 1987; Laws 2000, c. 243, § 58, emerg. eff. May 24, 2000. Renumbered from § 5-61e of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000. Amended by Laws 2009, c. 8, § 1, eff. July 1, 2009.

§2-14-36. Request for testing.

The State Board of Agriculture may, at the request of the owner or user of any weighing or measuring device, test a device upon payment of a fee for expenses.

Added by Laws 1976, c. 108, § 6, emerg. eff. May 12, 1976. Amended by Laws 2000, c. 243, § 59, emerg. eff. May 24, 2000. Renumbered from § 5-61f of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-14-37. Enforcement of regulations.

When necessary for the enforcement of this article or rules promulgated pursuant thereto, the State Board of Agriculture may:

1. Issue stop-use, hold, and removal orders for any weights and measures commercially used, and issue stop-sale, hold, and removal orders for any packaged commodities or bulk commodities kept, offered, or exposed for sale; and

2. Seize for use as evidence any incorrect or unapproved weight, measure, package, or commodity used, retained, offered, or exposed for sale or sold in violation of this article or rules promulgated pursuant thereto.

Added by Laws 1976, c. 108, § 7, emerg. eff. May 12, 1976. Amended by Laws 2000, c. 243, § 60, emerg. eff. May 24, 2000. Renumbered from § 5-61g of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-14-38. Definitions - Unlawful acts.

A. For the purposes of this section:

1. "Advertised price" means the price of a consumer item which price a store has caused to be disseminated by means of promotional methods such as an in-store sign, newspaper, circular, television, radio advertising, or other means;

2. "Board" means the State Board of Agriculture;

3. "Computer-assisted checkout system" means any electronic device, computer system, or machine which determines the selling price of a consumer item by interpreting the UPC of the consumer item, or any other use of a similar price look-up function;

4. "Commissioner" means the Commissioner of the Department of Agriculture, Food, and Forestry;

5. "Consumer item" means each item being offered or exposed for sale;

6. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry;

7. "Inspector" means an authorized representative of the Oklahoma Department of Agriculture, Food, and Forestry;

8. "Item price" means the tag, stamp, or mark affixed by an authorized person to a consumer item which sets forth, in Arabic numerals, the retail price thereof;

9. "Manually entered prices" means any method of determining the selling price of a consumer item by means other than a computer-assisted checkout system;

10. "Price look-up function" means the capacity of any checkout system to determine the retail price of a consumer item by way of the manual entry into the system of a code number assigned to that particular consumer item by an inspector or the store or the checkout operator's consultation of a file maintained at the point of sale or within the store;

11. "Sale price" means the price of consumer items offered for sale in good faith at a price below the price for which the consumer items are usually sold in the store;

12. "Shelf price" means the sign or tag placed by an authorized person at each point of display which clearly sets forth the retail price of the consumer item;

13. "Store" means any establishment which offers consumer items for sale at retail. Each separate building within which consumer items are offered for sale at retail shall constitute a separate store location for purposes of this section;

14. "Store-coded item" means the application of a UPC to any consumer item by that particular store; and

15. "Universal product code" (UPC) means the digital figure depicted through the use of bars and spaces, typically attached by the manufacturer or distributor, which may be scanned into the pricing system of a store.

B. 1. It shall be unlawful for any person to:

- a. sell, offer, or expose for sale a quantity less than the quantity represented,
- b. take more than the represented quantity when, as a buyer, the person furnishes the weight or measure by means of which the quantity is determined,
- c. represent the quantity in any manner calculated or tending to mislead or in any way deceive another person, or
- d. misrepresent the price of any commodity or service sold, offered, exposed, or advertised for sale by

weight, measure, or count or represent the price in any manner calculated or tending to mislead or in any way deceive a person.

2. It shall be 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.

C. Every person, store, firm, partnership, corporation, or association which sells, offers for sale, or exposes consumer items for sale at retail within this state shall disclose to the consumer the item price of the consumer items by:

1. Causing to be conspicuously, clearly, and plainly marked, stamped, typed, or affixed to the items, the retail price in Arabic numerals; or

2. Disclosing to the consumer the item price of the consumer items by causing a shelf price to be posted at the point of display in Arabic numerals or maintaining a price look-up function for the consumer items, except for consumer items held in outside storage and warehouses.

D. 1. If the shelf labels do not conform with the provisions of this section, the store shall be subject to the following penalties:

- a. for violations discovered upon the first inspection following any twelve-month period in which no violation of this section has been found, the store will receive a Letter of Warning and be placed on an increased inspection frequency. Stores will remain on an increased inspection frequency until they have achieved a twelve-month period in which no violation of this section has been found,
- b. for violations identified in the second inspection following any twelve-month period within which no such violations have been found, a penalty in the amount of Ten Dollars (\$10.00) per violation shall be imposed, but in no event shall the total penalty for all violations identified at the second inspection exceed Five Hundred Dollars (\$500.00), and
- c. for violations identified in a third or subsequent inspection in a twelve-month period following a previous violation of this section, the penalties shall be doubled, up to a maximum of One Thousand Dollars (\$1,000.00) per inspection.

2. Every day a violation is continued shall constitute a separate violation.

E. For the purpose of determining the compliance of a store with this section, an inspection shall be conducted of a sample of no fewer than fifty and no more than three hundred consumer items, with inspectors typically sampling fifty consumer items for each cash

register that may be operational in a given store using a computer-assisted checkout system. Inspections for manually entered prices may consist of sample sizes of no fewer than ten and no more than fifty items. The sample shall be selected by the inspector from a cross section of all items offered for sale at the store inspected.

F. 1. For any price accuracy inspection under this section, the store representative shall afford the inspector access to the test mode of the computer-assisted checkout system in use at the store or to a comparable function of the system and to the retail price information contained in any price look-up system.

2. In a store with a laser scanning or other computer-assisted checkout system, the inspector shall be permitted, whether through an agency issued scanner or otherwise, to compare the item, shelf, sale, or advertised price of any consumer items offered in the store, not to exceed three hundred consumer items selected from a cross section of all items offered for sale at the location at any one inspection, with the programmed computer price. Inspectors should sample fifty consumer items for each cash register that may be operational in a given store not to exceed three hundred consumer items selected from a cross section of all items offered for sale at the location of that store at any one inspection. The store shall provide access to its computers as necessary for the inspector to make the inspection.

G. Undercharges shall not be considered an inaccurately priced item when calculating price accuracy under this section.

H. Stores on a routine inspection frequency may be inspected once per six (6) months, depending upon available resources of the Department. Stores on an increased inspection frequency may be inspected in sixty-day intervals.

I. Any prior adoption in statute or rule of the Examination Procedure for Price Verification Handbook 130 issued by the National Institute of Standards and Technology is revoked. However, the inspection and testing procedures used by inspectors shall generally conform to the standards of the then current Handbook 130 issued by the National Institute of Standards and Technology, specifically including verification procedures for manually entered prices.

J. Any store found in violation of this section shall be subject to the penalties specified in this subsection. Each day on which a violation is continued shall constitute a separate violation. The failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of a given inspection shall be deemed a failed inspection. If the programmed computer price or manual checkout price, in cases where there is no programmed computer price, exceeds the shelf, sale, advertised, or otherwise publicly communicated price of any consumer item, the store shall be subject to the following penalties:

1. For violations discovered upon the first inspection following any twelve-month period in which no violation of this section has

been found, the store will receive a Letter of Warning and be placed on an increased inspection frequency. Stores shall remain on an increased inspection frequency until they have achieved a twelve-month period in which no violation of this section has been found;

2. For violations discovered upon the second inspection following any twelve-month period in which no violation of this section has been found, the store shall pay a penalty of Seventy-five Dollars (\$75.00) for each consumer item which results in an overcharge or potential overcharge;

3. Third violations discovered within any twelve-month period will be assessed a one-hundred-fifty-dollar penalty per consumer item which results in an overcharge or potential overcharge;

4. Fourth violations discovered within any twelve-month period will be assessed a two-hundred-fifty-dollar penalty per consumer item which results in an overcharge or potential overcharge;

5. Fifth violations discovered within any twelve-month period will be assessed a three-hundred-fifty-dollar penalty per consumer item which results in an overcharge or potential overcharge; and

6. Sixth or subsequent violations within any twelve-month period will be assessed a five-hundred-dollar penalty per consumer item which results in an overcharge or potential overcharge, with a maximum penalty per overcharge of Five Hundred Dollars (\$500.00) per consumer item, regardless of additional violations per inspection per store location.

K. The provisions of the Oklahoma Small Business Regulatory Flexibility Act pertaining to waiver or reduction of any administrative penalty or administrative fine shall not be applicable to this section and may not be relied upon for a reduction or deferral or as imposing any procedural prerequisite or as a defense, respecting actions investigated and/or brought under this section.

L. Persons primarily engaged in selling lumber and other building materials classified under Industry Group No. 4441 of the North American Industrial Classification System (NAICS), except for national home centers classified under NAICS code 444110, shall be exempt from this section.

M. The State Board of Agriculture shall have the authority to promulgate rules as necessary to carry out the purposes of this section.

Added by Laws 1976, c. 108, § 8, emerg. eff. May 12, 1976. Amended by Laws 2000, c. 243, § 61, emerg. eff. May 24, 2000. Renumbered from § 5-61h of Title 2 by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000. Amended by Laws 2007, c. 200, § 5, eff. Nov. 1, 2007; Laws 2009, c. 8, § 2, eff. July 1, 2009; Laws 2010, c. 434, § 1, eff. July 1, 2010; Laws 2017, c. 363, § 1, eff. Nov. 1, 2017.

§2-14-38a. Compliance.

Any person subject to the provisions of Sections 14-31 through 14-43 of Title 2 of the Oklahoma Statutes shall comply with the provisions of the National Institute of Standards and Technology Handbook 130, "Uniform Laws and Regulations," and supplements or revisions and the National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods," and supplements or revisions.
Added by Laws 2009, c. 8, § 3, eff. July 1, 2009.

§2-14-39. Liquid measure.

Except as provided by the State Board of Agriculture, commodities in liquid form shall be sold by liquid measure or by weight. Commodities not in liquid form shall be sold only by weight, measure, or count, so long as the method of sale provides accurate quantity information.

Added by Laws 1976, c. 108, § 9, emerg. eff. May 12, 1976. Amended by Laws 2000, c. 243, § 62, emerg. eff. May 24, 2000. Renumbered from § 5-61i of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-14-40. Labeling.

A. Except as provided in this article or by rules promulgated pursuant thereto, any package kept for the purpose of sale, offering for sale, or exposing for sale shall bear on the outside of the package a definite, plain, and conspicuous declaration of:

1. The identity of the commodity in the package, unless the commodity can easily be identified through the wrapper or container;

2. The quantity of contents in terms of weight, measure, or count; and

3. The name and place of business of the manufacturer, packer, or distributor if the package is kept, offered or exposed for sale, or sold in any place other than the premises where packed.

B. In addition, any package being one of a lot containing random weights of the same commodity and bearing the total selling price of the package shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight.

Added by Laws 1976, c. 108, § 10, emerg. eff. May 12, 1976. Amended by Laws 2000, c. 243, § 63, emerg. eff. May 24, 2000. Renumbered from § 5-61j of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-14-41. Advertising.

Whenever a packaged commodity is advertised in any manner and the retail price is stated, a declaration of quantity shall also appear on the package closely associated with the retail price. Where a dual declaration is required, only the declaration that sets forth

the quantity in terms of the smaller unit of weight or measure need appear in the advertisement.

Added by Laws 1976, c. 108, § 11, emerg. eff. May 12, 1976. Amended by Laws 2000, c. 243, § 64, emerg. eff. May 24, 2000. Renumbered from § 5-61k of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-14-42. Penalty.

It shall be unlawful for any person to violate any provision of this article or rules promulgated by the State Board of Agriculture. No person shall:

1. Use or have in possession for use in commerce any incorrect weight or measure;

2. Remove any tag, seal, or mark from any weight or measure without specific written authorization from the proper authority; or

3. Hinder or obstruct any weights and measures official in the performance of the duties of such official.

Added by Laws 1976, c. 108, § 12, emerg. eff. May 12, 1976. Amended by Laws 2000, c. 243, § 65, emerg. eff. May 24, 2000. Renumbered from § 5-61l of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-14-43. Injunction - Presumption.

If a weight or measure or weighing or measuring device exists where buying or selling is commonly carried on, there shall be a rebuttable presumption that the weight, measure, or weighing or measuring device is regularly used for business purposes.

Added by Laws 1976, c. 108, § 13, emerg. eff. May 12, 1976. Amended by Laws 2000, c. 243, § 66, emerg. eff. May 24, 2000. Renumbered from § 5-61m of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-14-61. Short title.

This article shall be known as the "Oklahoma Service Technician and Service Agency Act".

Added by Laws 1990, c. 249, § 1, eff. Jan. 1, 1991. Amended by Laws 2000, c. 243, § 67, emerg. eff. May 24, 2000. Renumbered from § 5-62.1 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-14-62. Definitions.

As used in the Oklahoma Service Technician and Service Agency Act:

1. "Commercial weighing and measuring device" means any weight or measure that is used or employed in establishing size, quantity, grade, extent, area, measurement of quantities, things, products, or articles for distribution or consumption which are purchased, offered

or submitted for sale, hire or award, or in computing any basic charge or payment for services rendered. The term commercial weighing and measuring device shall also include any accessory attached to or used in connection with a weighing or measuring device when the accessory is so designed or installed that its operation affects, or may affect, the accuracy of the weight or measure;

2. "Placing-in-service report" means a report on a form approved by the State Board of Agriculture listing the name, address, and location of the commercial weight or measure, and information stating in detail what services were performed and whether the weight or measure is new or removed from the premises, the date the service was performed, and other required information;

3. "Service" means to install, adjust, sell, repair, condition, recondition, overhaul, test, or remove from installation, a weight, measure, or weighing or measuring device;

4. "Service agency" means any person who services a weight or measure for hire, award, commission, or any other payment of kind;

5. "Service technician" means any individual who services a weight or measure for hire, award, commission, or any other payment of kind; and

6. "Test" means to test a weighing and measuring device according to the laws, rules, and the specifications and tolerances adopted by the National Conference on Weights and Measures and published in Handbook 44, "Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices".

Added by Laws 1990, c. 249, § 2, eff. Jan. 1, 1991. Amended by Laws 2000, c. 243, § 68, emerg. eff. May 24, 2000. Renumbered from § 5-62.2 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-14-63. License required - Issuance - Qualifications - Apprentice license - Applications - Categories of weights or measures - Contents of license - Termination of employment - Conviction of felony - Expiration date - Fees - Exemptions from act.

A. It shall be unlawful for any person to do business as a service agency or service technician without first obtaining a valid license issued by the State Board of Agriculture and paying the license fee.

B. A service agency license may be issued by the Board after submitting an application on a form prescribed by the Board. The service agency shall have the appropriate amount of equipment and standards and have employed a qualified licensed service technician in each category as stated on the application and such other information as required by the Board. Failure to show proper qualification under the rules prescribed by the Board or for violations of any of the provisions of the Oklahoma Service

Technician and Service Agency Act shall be grounds for the Board to deny the issuance or renewal of the license.

C. An apprentice service technician license may be issued after submitting an application on a form prescribed by the Board. The apprenticeship license for new applicants, with no device-related educational training from an accredited or recognized institution or experience, shall be in effect for one year. All apprentice service technicians shall work under the supervision of a licensed service technician when servicing a weight or measure. Failure to show proper qualifications under the rules prescribed by the Board or violations of any provisions of the Oklahoma Service Technician and Service Agency Act shall make it the duty of the Board to deny the issuance or renewal of the license.

D. 1. An applicant for a service technician license shall submit an application on a form prescribed by the Board. Failure to show proper qualifications under the rules prescribed by the Board or violations of any of the provisions of the Oklahoma Service Technician and Service Agency Act shall make it the duty of the Board to deny the issuance or renewal of the license.

2. A service technician license may be issued by the Board pursuant to the provisions of the Oklahoma Service Technician and Service Agency Act, provided the applicant qualifies under the provisions of the Oklahoma Service Technician and Service Agency Act or any rule promulgated by the Board and the applicant is limited to the category or categories of weight or measure named on the license. The Board shall establish necessary categories of weight or measure service.

3. Each service technician license shall specify the kind of work in which the applicant is authorized to engage, and shall show the name and address of the person to whom it is issued, and the name of the service agency with whom the individual is employed.

4. No service technician license shall be issued or remain valid if the Board finds that the applicant has been convicted of a weight or measure-related felony charge in any state or territory of the United States.

5. Any apprentice technician license and service technician license upon separation of employment with the licensed service agency as stated on the license shall be returned to the Board. Failure to return and continued use of license upon separation of employment shall constitute a violation. The service agency shall immediately report the separation or termination of a licensed service technician's employment to the Board.

E. All licenses are nontransferable. All licenses shall expire on a date specified by the Board and may be renewed for the ensuing year, without penalty. If application is not received within thirty (30) days of expiration date, a penalty of twice the amount of the

renewal fee shall be charged for renewal of the license as applicable.

F. The following fees shall be paid to the Board. All fees collected by the Board, pursuant to this subarticle, shall be deposited in the State Board of Agriculture Revolving Fund:

1. A fee of One Hundred Dollars (\$100.00) for the issuance or renewal of a license as a service agency;

2. A fee of Twenty-five Dollars (\$25.00) for issuance or renewal of a license as a service technician for each category of weights and measures serviced;

3. A fee of Ten Dollars (\$10.00) for the issuance of a license for an apprentice service technician; and

4. A fee of Ten Dollars (\$10.00) for the issuance of a duplicate license.

G. The Oklahoma Service Technician and Service Agency Act shall not apply to public utilities, public service corporations, rural electric associations, or municipal utilities and their subsidiaries during work on their own facilities or during the performance of energy audits, operations, inspections, maintenance, or repairs for their customers or on their own equipment.

Added by Laws 1990, c. 249, § 3, eff. Jan. 1, 1991. Amended by Laws 2000, c. 243, § 69, emerg. eff. May 24, 2000. Renumbered from § 5-62.3 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-14-64. Board - Powers and Duties.

When necessary for the enforcement of the Oklahoma Service Technician and Service Agency Act, the State Board of Agriculture shall have the following powers and duties:

1. Issue stop sale, stop use, hold, and removal orders with respect to any weight or measure found to be in violation of the Oklahoma Service Technician and Service Agency Act;

2. Seize for use as evidence any incorrect or unapproved weight or measure found to be used, retained, or sold in violation of the Oklahoma Service Technician and Service Agency Act or rules promulgated pursuant thereto;

3. Conduct investigations to ensure compliance with the Oklahoma Service Technician and Service Agency Act and rules promulgated thereto; and

4. Enter into contracts with state or federal agencies for the conduct of weight and measure testing.

Added by Laws 1990, c. 249, § 4, eff. Jan. 1, 1991. Amended by Laws 2000, c. 243, § 70, emerg. eff. May 24, 2000. Renumbered from § 5-62.4 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-14-65. Service technicians and service agencies - Powers, duties and responsibilities.

Licensed service technicians and service agencies shall:

1. Submit a placing in service report to the State Board of Agriculture within five (5) calendar days after service is provided when required by the Board;
2. Have the authority to remove an official rejection tag after the device has been repaired, tested, and found to meet requirements. The rejection tag and the service technician/service agency test report shall accompany the placing-in-service report submitted to the Board;
3. Attach a seal approved by the Board identifying the service agency, signed and dated by the service technician, stating that the commercial device has been tested in accordance with the provisions in Handbook 44 and is suitable for use as a commercial device;
4. Have available and use sufficient standards and equipment to adequately test weights and measures as set forth in the notes section of each applicable code in Handbook 44, "Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices", and have the handbook in their possession. The equipment shall meet the specifications corresponding to the series of NIST Handbook 105, "Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures", supplements and revisions;
5. Submit to the Board, as required by the Board of Control of the State Bureau of Standards, for examination and certification, any standards and testing equipment that are used or are to be used in the performance of the service and testing functions. A licensed service technician or service agency shall not use any weight or measure standard or testing equipment that has not been approved by the Board; and
6. Maintain all records required by the Board.

Added by Laws 1990, c. 249, § 5, eff. Jan. 1, 1991. Amended by Laws 2000, c. 243, § 71, emerg. eff. May 24, 2000. Renumbered from § 5-62.5 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-14-66. Owner serviced and maintained devices.

Nothing in the Oklahoma Service Technician and Service Agency Act shall prohibit a weight or measure owner or a regular employee of the owner from servicing or repairing a device. However, if the device is found out of tolerance and is rejected by the State Board of Agriculture, the owner is responsible for repairing the device within the time specified on the rejected tag. In addition, the owner shall notify the Board when the device is repaired and in operation. The owner shall pay a fee commensurate with the expense incurred by the Board in performing the follow-up inspection or test.

Added by Laws 1990, c. 249, § 6, eff. Jan. 1, 1991. Amended by Laws 2000, c. 243, § 72, emerg. eff. May 24, 2000. Renumbered from § 5-62.6 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-14-67. Owner serviced and maintained devices.

Nothing in the Oklahoma Service Technician and Service Agency Act shall prohibit a weight or measure owner or a regular employee of the owner from servicing or repairing a device. However, if the device is found out of tolerance and is rejected by the State Board of Agriculture, the owner is responsible for repairing the device within the time specified on the rejected tag. In addition, the owner shall notify the Board when the device is repaired and in operation. The owner shall pay a fee commensurate with the expense incurred by the Board in performing the follow-up inspection or test.

Added by Laws 1990, c. 249, § 6, eff. Jan. 1, 1991. Amended by Laws 2000, c. 243, § 73, emerg. eff. May 24, 2000. Renumbered from § 5-62.7 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-14-68. Administration and enforcement of act - Rules, regulations, standards and evaluations.

The State Board of Agriculture shall administer and enforce the provisions of the Oklahoma Service Technician and Service Agency Act and shall promulgate rules, standards and evaluations, and work performance of each category of weight or measure. The rules, and standards or evaluation of weight or measure shall conform as nearly as practicable to the handbooks as specified in this article and adopted by the National Conference on Weights and Measures.

Added by Laws 1990, c. 249, § 8, eff. Jan. 1, 1991. Amended by Laws 2000, c. 243, § 74, emerg. eff. May 24, 2000. Renumbered from § 5-62.8 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-14-69. Suspension, cancellation, revocation or refusal to re-issue license - Violations - Criminal penalties.

A. The State Board of Agriculture may suspend, cancel, revoke, or refuse reissuance of a license after the person has an opportunity for public hearing pursuant to the Administrative Procedures Act. In addition, the person may be prosecuted for any of the following violations:

1. Failure to correct work on each job which fails to meet the requirements and required testing procedures as adopted by the National Conference on Weights and Measures and published in Handbook 44 as amended;

2. Failure to complete the placing-in-service report in its entirety and to report the accurate description of parts replaced, adjusted, or reconditioned and work performed;

3. Failure to report in a contract or work agreement a written explanation of the actual repairs required to repair the weight or measure to meet the requirements;

4. Failure to furnish to the Board, upon request, duplicated copies of the service agency or any service technician weight or measure test report, or any other information required by the Board;

5. To test or place in service a weight or measure that does not meet the requirements for a commercial device as specified in Handbook 44 and the required testing procedures for the category of weight and measure;

6. Making a misrepresentation for the purpose of defrauding;

7. Operating as a service technician or service agency without proper license;

8. Repairing a weight or measure unless the repair involved causes the weight or measure to meet the requirements of the Oklahoma Service Technician and Service Agency Act for at least ninety (90) days after the repairs;

9. Failure to submit a placing-in-service report to the Board within five (5) calendar days after that repair, installation, or removal is performed; and

10. Filing a false or fraudulent application to the Board.

B. It shall be unlawful for any person, holder or nonholder of a valid license to violate any provisions of the Oklahoma Service Technician and Service Agency Act or rules promulgated thereto. Any violation shall be punishable by the imposition of a fine of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00).

Added by Laws 1990, c. 249, § 9, eff. Jan. 1, 1991. Amended by Laws 2000, c. 243, § 75, emerg. eff. May 24, 2000. Renumbered from § 5-62.9 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-14-81. Analytical laboratory - Purposes.

The State Department of Agriculture is directed to establish, at the earliest practicable time, as a function of the State Department of Agriculture, analytical laboratory facilities for the following purposes:

1. Conducting analyses to determine the qualitative and quantitative amounts of pesticidal residues or other objectionable, harmful, or deficient materials in crops, foodstuffs, water, and other materials destined for human consumption or for animal feeds including forage crops and whole grains which are shipped in intrastate commerce in Oklahoma or which are sold or to be sold for human consumption or for animal feeds in Oklahoma;

2. Conducting tests and making qualitative and quantitative analyses to determine:

- a. the quality or wholesomeness of manufactured milk and manufactured dairy products,
- b. diseases affecting animal health, and
- c. various ingredients or components of feed, fertilizer, and pesticides; or

3. Any other chemical tests or analyses concerning agricultural products regulated or monitored by the State Board of Agriculture. Added by Laws 1965, c. 497, § 1, emerg. eff. July 19, 1965. Amended by Laws 2000, c. 243, § 20, emerg. eff. May 24, 2000. Renumbered from § 2-19 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-14-82. Tolerances.

The State Department of Agriculture shall establish tolerances for pesticidal chemicals in foodstuffs and other materials destined for human consumption or animal feeds including forage crops and grains except where tolerances are established by the State Board of Health on foodstuffs or other materials for human consumption for which the State Board of Health has regulatory jurisdiction by law. Copies of the tolerances shall be made available to any agency, person, group, company or other organization requesting the tolerances.

Added by Laws 1965, c. 497, § 2, emerg. eff. July 19, 1965. Amended by Laws 2000, c. 243, § 21, emerg. eff. May 24, 2000. Renumbered from § 2-20 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-14-83. Time of operation - Fees - Use of other laboratories.

A. The State Department of Agriculture shall determine the days and hours of the operation of the State Department of Agriculture laboratory. The laboratory shall conduct qualitative and quantitative analyses of pesticidal residues and other chemical determinations of agricultural products contained in samples submitted, by any person, agency, group, or other organization.

B. The State Board of Agriculture shall promulgate a schedule of fees for work performed by the laboratory. The fees shall be calculated to help defray the costs of operating the laboratory including, but not limited to: salaries, chemicals, materials, equipment, and repairs to and replacement of materials, equipment, and buildings. Fees paid by state offices and agencies utilizing the services of the laboratory shall be paid from their general appropriations.

C. The Department is authorized to have a test or determination made in a qualified laboratory other than the Department laboratory.

Any determination or test made by another qualified laboratory shall be considered official for that particular sample.

Added by Laws 1965, c. 497, § 3, emerg. eff. July 19, 1965. Amended by Laws 2000, c. 243, § 22, emerg. eff. May 24, 2000. Renumbered from § 2-21 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-14-84. Disposition of fees.

All fees collected for analytical work in the laboratory shall be deposited in the State Department of Agriculture Revolving Fund and shall be used solely to perform analytical work.

Added by Laws 1965, c. 497, § 5, emerg. eff. July 19, 1965. Amended by Laws 2000, c. 243, § 23, emerg. eff. May 24, 2000. Renumbered from § 2-23 of this title by Laws 2000, c. 243, § 126, emerg. eff. May 24, 2000.

§2-15-1. Agricultural fair corporations - Land, buildings and improvements - Purposes.

A. Agricultural Fair Corporations may:

1. Purchase, hold or lease or otherwise acquire any quantity of land necessary for their proper operation, with such buildings and improvements as may be erected thereon;

2. Sell, lease, or otherwise dispose of such land, buildings and improvements at their pleasure.

B. Real estate must be held for the purpose of erecting buildings and making other improvements thereon, to:

1. Promote and encourage:

- a. agriculture,
- b. horticulture,
- c. mechanics,
- d. manufacturers,
- e. stock raising,
- f. 4-H clubs,
- g. Future Farmers of America,
- h. Home Demonstration Clubs,
- i. poultry raising,
- j. arts,
- k. trades,
- l. crafts,
- m. hobbies,
- n. industry,
- o. commerce, and
- p. the general welfare of the people; and

2. Cooperate as may be deemed advisable by the Corporation's Board of Directors with:

- a. the state and federal agriculture extension organizations,

- b. cooperative marketing associations,
- c. livestock and crop improvement associations, and
- d. other farm, industrial, commercial or educational organizations.

R.L. 1910, § 22. Amended by Laws 1951, p. 1, § 1; Laws 2001, c. 146, § 146, emerg. eff. April 30, 2001. Renumbered from § 31 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-15-2. Limitation on indebtedness - Purchase of realty - Mortgages - Directors' liability.

Agricultural Fair Corporations shall not contract any debts or liabilities in excess of the amount of money in the treasury at the time of contract except for the purchase of real property, for which they may create a debt not exceeding Three Thousand Dollars (\$3,000.00), secured by mortgage on the property of the corporation. The directors of any Agricultural Fair Corporation who vote therefor shall be personally liable for any debt contracted or incurred in violation of this section.

R.L. 1910, § 23. Amended by Laws 2001, c. 146, § 147, emerg. eff. April 30, 2001. Renumbered from § 32 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-15-3. Capital stock and income - Charges and fees - Bylaws - Limitation of charges.

A. Agricultural Fair Corporations shall not be conducted for profit, and shall have no capital stock or income other than that derived from charges to exhibitors and fees for membership and admissions. Such charges and fees, together with the term of membership and mode of acquiring membership shall be provided for in the bylaws of the corporations.

B. Any charges and fees shall not be greater than necessary to raise sufficient money to discharge the debt for the real estate and the improvements thereon, and to defray the current expenses of fairs.

R.L. 1910, § 24. Amended by Laws 2001, c. 146, § 148, emerg. eff. April 30, 2001. Renumbered from § 33 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-15-4. Organization of agricultural fair corporations - Rights, privileges and liabilities.

Agricultural Fair Corporations may be organized by three or more persons, as in the case of other corporations, with all the rights, privileges and liabilities appertaining to such corporations under the corporation laws of this state, including the rights and privileges as are specified in this section and Sections 146 through 148 of this act.

R.L. 1910, § 25. Amended by Laws 2001, c. 146, § 149, emerg. eff. April 30, 2001. Renumbered from § 34 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-15-5. Special premiums - Appropriations.

The county commissioners of the counties of this state, having a county fair association, organized pursuant to the laws of Oklahoma, are hereby authorized to appropriate any sum of money not to exceed Five Hundred Dollars (\$500.00) each year to be offered as special premiums, such special premiums to be determined upon by the county commissioners and the directors of the fair association. Such money shall be used to pay premiums of the county fair for exhibits of agricultural and horticultural products and improved stock.

Added by Laws 1910-11, c. 118, p. 260, § 1. Amended by Laws 2001, c. 146, § 150, emerg. eff. April 30, 2001. Renumbered from § 35 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-15-6. Funds for special premiums - Audit and allowance of bills - Certificates of fair association officers - Speed exhibitions and races excepted.

A. The funds provided for in Section 15-5 of this title shall be derived from any funds on hand, not otherwise appropriated, in the contingent fund of the county. The county commissioners shall audit and allow bills presented by persons to whom premiums have been awarded as in other cases, on filing with the bill, a certificate of the secretary and treasurer of the fair association. The certificate shall state the person to whom the premium was awarded, and the amount and character of the exhibit for which premium was awarded.

B. No part of the appropriation shall be allowed or paid for exhibitions of speed or races.

Added by Laws 1910-11, c. 118, p. 260, § 2. Amended by Laws 2001, c. 146, § 151, emerg. eff. April 30, 2001. Renumbered from § 36 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-15-7. Special election - Petition - Question to be submitted.

The county commissioners when petitioned to do so by thirty percent (30%) of the resident taxpayers of their county shall call a special election of the resident taxpayers for purposes of this section. The commissioners shall submit the question to the resident taxpayers "Shall the county commissioners appropriate any sum of money, not to exceed one-half of one mill on the total assessed valuation of their counties for each current year, for premiums on agricultural and horticultural products and on purebred livestock and poultry?"

Added by Laws 1910-11, c. 118, p. 260, § 3. Amended by Laws 2001, c. 146, § 152, emerg. eff. April 30, 2001. Renumbered from § 37 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-15-8. Special election - Petition - Management of fair.

The petition to the county commissioners shall name the stock show or fair association that the petitioners desire to manage the stock show or fair.

Added by Laws 1910-11, c. 118, p. 260, § 4. Amended by Laws 2001, c. 146, § 153, emerg. eff. April 30, 2001. Renumbered from § 38 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-15-9. Notice to allow and pay premiums - Amount - Free admission to fair as condition - Premium list.

When directed by a vote of the resident taxpayers, as provided in Section 15-7 of this title, the county commissioners shall at their first meeting thereafter, notify the officers of the stock show or fair association named in the petition that the premiums shall be allowed and paid to the amount named in the petition and no more, provided, that admittance is free at all times to the stock show or fair association at which the premiums are offered. The commissioners shall determine and notify the association of the number and amount of premiums to be offered and have a premium list printed, which shall be furnished free to all interested. The premiums shall be paid in accordance with the list.

Added by Laws 1910-11, c. 118, p. 261, § 5. Amended by Laws 2001, c. 146, § 154, emerg. eff. April 30, 2001. Renumbered from § 39 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-15-10. Payment of premiums - Vouchers - Execution and certification.

The county commissioners shall not pay premiums except on a voucher. The voucher shall state the name of the person and the person's address to whom the premium was awarded. The voucher must be signed by the judge who awards the premium. The voucher must also be signed and certified by the person acting as clerk to the judge.

Added by Laws 1910-11, c. 118, p. 261, § 6. Amended by Laws 2001, c. 146, § 155, emerg. eff. April 30, 2001. Renumbered from § 40 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-15-11. Funds for special premiums - County contingent fund - Special tax levy.

The funds provided for by Sections 146 through 159 of this act shall be derived from any fund on hand, and not otherwise appropriated, in the contingent fund of the county. If the amount available in the contingent fund is insufficient then the county commissioners are authorized and directed to make a special tax levy for the contingent fund for the amount necessary.

Added by Laws 1910-11, c. 118, p. 261, § 7. Amended by Laws 2001, c. 146, § 156, emerg. eff. April 30, 2001. Renumbered from § 41 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-15-12. Audit and allowance of bills for premiums - Warrants.

The county commissioners at a special meeting to be held on the last day of the stock show or fair, or as soon thereafter as possible shall:

1. Audit and allow bills presented by the persons to whom premiums have been awarded, or to their order; and

2. Order the county clerk to issue a warrant for the bills.

Added by Laws 1910-11, c. 118, p. 261, § 8. Amended by Laws 2001, c. 146, § 157, emerg. eff. April 30, 2001. Renumbered from § 42 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-15-13. Investment of monies in Free Fair Building Fund in government bonds or notes.

Any and all monies in the "Free Fair Building Fund" of any county which has been raised by levy therefor or transfer into the Fund from the sinking funds of the county may be invested by the board of county commissioners with the approval of the directors of the county free fair association, in bonds or notes issued by the United States Government or the Treasury Department of the United States.

Added by Laws 1943, p. 5, § 1. Amended by Laws 2001, c. 146, § 158, emerg. eff. April 30, 2001. Renumbered from § 44 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-15-14. Retirement pay for employees of Agricultural Fair Corporations.

The Board of Directors of any nonprofit Agricultural Fair Corporation organized under the laws of the State of Oklahoma may establish a retirement pay plan for any of its employees faithfully performing his or her duties for a period of more than thirty (30) years. The payments shall be considered a part of current operating expenses of the corporation and the amount of the payments and methods of making the payments shall be determined from year to year by the Board of Directors as they may see fit.

Added by Laws 1949, p. 5, § 1. Amended by Laws 2001, c. 146, § 159, emerg. eff. April 30, 2001. Renumbered from § 45 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-15-21. Organization - Purpose - Restriction on location - Free township and county fairs not affected.

For the purpose of encouraging the development of the agricultural, horticultural, mechanical, mineral, stock-raising and all other industrial interests of the State of Oklahoma, three or

more counties may, as otherwise provided in this article, organize a free district fair, provided that:

1. No such free district fair shall be held within one hundred (100) miles of any other free district or State Fair; and

2. The provisions of this article shall not interfere with the operation of the present law with reference to the organization and operation of free township and county fairs already organized.

Added by Laws 1923, c. 125, p. 205, § 1. Amended by Laws 2001, c. 146, § 160, emerg. eff. April 30, 2001. Renumbered from § 71 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-15-22. Officers - Selection - Board of directors - Election of president and secretary.

The officers of the free district fair association shall be chosen from the delegates selected by the counties entering the association. The officers shall consist of a president, secretary and board of directors. The president and secretary selected pursuant to Section 15-55 of this title for county fair association organizations of each of the counties constituting the free district fair association shall be and constitute the board of directors of the free district fair association from which membership a president and secretary shall be elected.

Added by Laws 1923, c. 125, p. 205, § 2. Amended by Laws 2001, c. 146, § 161, emerg. eff. April 30, 2001. Renumbered from § 72 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-15-23. Executive board - Members - Powers - Limitation on expenditures - Time of holding fair.

A. The president, secretary and board of directors shall constitute the executive board of the free district fair association and shall have full power and authority to make all rules for holding the free district fair in accordance with the provisions of this article. The executive board shall have authority to expend the funds of the free district fair association, but in no case shall the expenditures exceed the amount of money donated and appropriated.

B. The time of holding a free district fair shall be so placed as to not interfere with the dates of any county fair comprising the association or any free state fair.

Added by Laws 1923, c. 125, p. 205, § 3. Amended by Laws 2001, c. 146, § 162, emerg. eff. April 30, 2001. Renumbered from § 73 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-15-24. Estimate and apportionment of cost - Certification of estimate to county excise boards - Items of expenditures.

A. The executive board shall:

1. Make an estimate of the cost of the free district fair;

2. Apportion to each of the counties comprising the association the portion to be borne by each member county together with the plan and items of expenditures; and

3. Certify the estimate to the county excise board in each of the member counties in time to be acted on by the county excise board at its annual meeting for making tax levies.

B. The items to be considered in the expenditure of funds shall be for:

1. Premiums on livestock, poultry, fruit, agriculture, horticultural and dairy products; boys' and girls' club work, school exhibits, culinary products, textile products, needlework and sewing, hand painting, decorating and drawing, and cultivated plants and flowers;

2. The necessary expenses of management of free district fairs organized under the provisions of this article, including office expense, postage, telegraph and telephone, traveling expenses of secretary within the district in which the fair is held, printing (except premium lists) and necessary office supplies, premium ribbons and badges, clerical help, guards, superintendents and judges; and

3. Advertising the fair and for decorating and cleaning the grounds and buildings, and for caring for the grounds during the fair.

Added by Laws 1923, c. 125, p. 206, § 4. Amended by Laws 2001, c. 146, § 163, emerg. eff. April 30, 2001. Renumbered from § 74 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-15-25. Appropriations for premiums - Special election.

The authority for the county excise boards in counties comprising the free district fair associations shall be by special election of the resident taxpayers in the various counties. At the special election, the following question shall be submitted to the resident taxpayers: "Shall the county commissioners appropriate any sum of money, not to exceed one (1) mill on the total assessed valuation of their counties for each current year for premiums on agricultural and horticultural products and on purebred livestock and poultry, at the free district fair?"

Added by Laws 1923, c. 125, p. 206, § 5. Amended by Laws 2001, c. 146, § 164, emerg. eff. April 30, 2001. Renumbered from § 75 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-15-26. Special election - Call - Petition - Contents.

The special election mentioned in Section 15-25 of this title shall be called by the county commissioners of each of the said counties when requested to do so upon a petition signed by thirty percent (30%) of the resident taxpayers of said counties, and said petition shall designate the time and place of holding said free district fair.

Added by Laws 1923, c. 125, p. 206, § 6. Amended by Laws 2001, c. 146, § 165, emerg. eff. April 30, 2001. Renumbered from § 76 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-15-27. Notice to county excise board of election result and amount of estimate - Tax levy.

When directed by a vote of the resident taxpayers at the special election, the county commissioners shall at their first meeting thereafter, notify the county excise board that:

1. The question specified by Section 15-25 of this title has been voted upon and carried; and

2. The estimate as submitted by the board of directors of the free district fair association amounts to a sum, not to exceed the amount voted upon.

The excise board shall proceed to levy upon the total valuation of the county a tax sufficient to raise the amount named in the county commissioners' report, not to exceed one (1) mill, for the free district fair purposes.

Added by Laws 1923, c. 125, p. 206, § 7. Amended by Laws 2001, c. 146, § 166, emerg. eff. April 30, 2001. Renumbered from § 77 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-15-28. Stand rights and privileges - Admission charges for special amusements - Proceeds - Use - Balance.

A. The free district fair association shall have exclusive rights to all stand rights and privileges. Admission may be charged to races, horse shows, or any other special amusements. No money collected pursuant to this section shall be used to defray any expenses or costs of such races, horse show or amusements. In addition, the charging of admission to such amusements shall not interfere with free access of the public to all exhibits.

B. All monies derived from rights and privileges of the fairgrounds shall be collected by the secretary of the free district fair association, and except as provided in this section, may be used in defraying expenses.

C. Any balance that may be on hand after such expenses shall be turned over to the secretary, who shall place it in the free district fair fund.

Added by Laws 1923, c. 125, p. 207, § 8. Amended by Laws 2001, c. 146, § 167, emerg. eff. April 30, 2001. Renumbered from § 78 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-15-29. Premium catalogs - Printing - Payment of expense.

Premium catalogs shall be printed in sufficient numbers for distribution throughout the area comprising the free fair district. The expense of printing the premium catalogs shall be borne by advertisers in the catalog.

Added by Laws 1923, c. 125, p. 207, § 9. Amended by Laws 2001, c. 146, § 168, emerg. eff. April 30, 2001. Renumbered from § 79 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-15-30. Admission charge - When not permitted.

No admittance fee shall be charged by any free district fair association if any premiums are offered, to any grounds or enclosure where public exhibitions are made for public premiums.

Added by Laws 1923, c. 125, p. 207, § 10. Amended by Laws 2001, c. 146, § 169, emerg. eff. April 30, 2001. Renumbered from § 80 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-15-31. Deposit of funds - Accounts - Disbursements - Annual report of receipts and disbursements.

A. All funds of the free district fair association shall be deposited in a bank selected by the board of directors of such association. An accurate and itemized account of such funds shall be kept together with the itemized statement of disbursements and canceled checks for disbursements.

B. No disbursement shall be made except upon a check signed by the president, and countersigned by the secretary of a free district fair association.

C. An annual report of the itemized receipts and disbursements shall be made to the Governor and the Chairman of the Oklahoma State Board of Agriculture.

Added by Laws 1923, c. 125, p. 207, § 11. Amended by Laws 2001, c. 146, § 170, emerg. eff. April 30, 2001. Renumbered from § 81 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-15-32. State not liable for deficiency or expense.

The State of Oklahoma shall not be liable for any sum of money whatsoever, by reason of the running, operating or establishing of a free district fair, pursuant to the provisions of this article. Any deficiency or expense occasioned by the running or operating of a free district fair shall never be paid by the State of Oklahoma, nor be a charge against the state.

Added by Laws 1923, c. 125, p. 207, § 12. Amended by Laws 2001, c. 146, § 171, emerg. eff. April 30, 2001. Renumbered from § 82 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-15-51. County free fair associations.

A. There may be organized in each county in the State of Oklahoma a county free fair association.

B. The term "free fair" as used in Sections 172 through 186 of this act shall be construed to mean township and county fairs, livestock shows, and other agricultural shows where admission to the

grounds and all exhibit buildings are free and no charge is made for entering exhibits on which premiums are offered.
Added by Laws 1915, c. 179, § 1. Amended by Laws 1925, c. 38, p. 56, § 1; Laws 1965, c. 395, § 1, emerg. eff. July 1, 1965; Laws 2001, c. 146, § 172, emerg. eff. April 30, 2001. Renumbered from § 91 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-52. County fairs - Power to organize and create upon abolition of free state fair.

Any county in which a free state fair is abolished by the Oklahoma Legislature may organize and create a county fair pursuant to the provisions of this article.

Added by Laws 1999, c. 50, § 1, emerg. eff. April 5, 1999. Amended by Laws 2001, c. 146, § 173, emerg. eff. April 30, 2001. Renumbered from § 91.1 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-53. Object of free fairs.

The object of free fairs is to promote agriculture, horticulture, livestock and poultry raising, manufacturing, arts, trades and every industry of the county in which the fair is held.

Added by Laws 1915, c. 179, § 2. Amended by Laws 1925, c. 38, p. 56, § 2; Laws 2001, c. 146, § 174, emerg. eff. April 30, 2001. Renumbered from § 92 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-54. Members - Qualifications - Election at public meetings - Notices - Appointment on failure to hold public meeting - Term.

A. The county fair association in each county, organized pursuant to Section 15-51 of this title, shall consist of two members in each municipal township, in each county, who are resident qualified voters in the county and who have been elected at public meetings or appointed by the county commissioners as provided pursuant to this section.

B. The county farm agent of any county may, or if there is no such agent, upon petition of fifty resident citizens of the county, the county commissioners shall, within thirty (30) days after the filing of the petition, call a public meeting in each municipal township, in each such county, for the purpose of electing the two members of the county fair association.

C. The call for the public meeting shall be made by posting notices in at least three public places in the township or by both posting notices and publication in a newspaper of general circulation in the county. The notices and publications shall state the purpose of the meeting, the time and place of holding the meeting. The notices and publication must be made one (1) week before date of the meeting.

D. A chairman and a secretary shall be chosen at each of the various township meetings for the purpose of conducting the public meetings and who shall certify to the county commissioners the names of the two elected members of the county fair association. The certificate shall be made to the county commissioners not later than June first of the fiscal year in which the township public meetings are held. If any township or townships in any county fail to hold a public meeting for the election of members of the county fair association, the county commissioners of such county shall appoint two members in each of the townships, who shall have the same power and authority as the elected members.

E. Township public meetings for the election of members of the county fair association may be called at any time prior to June first in any fiscal year. The members so elected shall hold their office for a period of two (2) years and until their successors are elected or appointed.

Added by Laws 1915, c. 179, § 3. Amended by Laws 1921, c. 89, p. 113, § 1; Laws 1925, c. 38, p. 56, § 3; Laws 2001, c. 146, § 175, emerg. eff. April 30, 2001. Renumbered from § 93 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-55. Organization meeting - Time and place - Election of officers, directors and committees - Qualifications of secretary.

As soon as practicable, prior to July first, after the election of members of the county fair association, the members elect shall meet at the county seat and shall perfect an organization by the election of a president, vice president, secretary and a board of directors. The Board of Directors shall consist of the president, vice president, secretary and four members, and such committees and officers as shall be deemed necessary. The secretary may be selected outside of the association, but must be a resident of the county seat or the town or city where the county fair is held.

Added by Laws 1915, c. 179, § 5. Amended by Laws 1925, c. 38, p. 57, § 4; Laws 2001, c. 146, § 176, emerg. eff. April 30, 2001. Renumbered from § 94 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-56. Special meetings - Notices of regular and special meetings.

Special meetings may be called at any time by the president or secretary of the county fair association or upon written request of one-fourth (1/4) of the members of the association. Notices of regular and special meetings shall be given by mail at least three (3) days prior to such meetings.

Added by Laws 1915, c. 179, § 4. Amended by Laws 1921, c. 89, p. 113, § 2; Laws 1925, c. 38, p. 57, § 5; Laws 2001, c. 146, § 177,

emerg. eff. April 30, 2001. Renumbered from § 95 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-57. Board of directors - Rules - Expenditures.

The board of directors shall constitute the executive board of the county fair association and shall have full power and authority to:

1. Make all rules for holding the township and county fairs in accordance with the provisions of Sections 15-51 through 15-96 of this title; and

2. Expend the funds of the county fair association as herein provided, but in no case shall the expenditures exceed the amount of the appropriation.

Added by Laws 1915, c. 179, § 6. Amended by Laws 1925, c. 38, p. 57, § 6; Laws 2001, c. 146, § 178, emerg. eff. April 30, 2001.

Renumbered from § 96 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-58. Estimate of cost of fairs - Certification to county excise board - Items of expenditure.

A. The executive board, with such committee as may be selected from the county fair association, shall make an estimate of the cost of the township and county fairs, and shall certify such estimate to the county excise board in time to be acted upon by the county excise board at its annual meeting for making tax levies.

B. The items to be considered in the expenditure of funds shall be for:

1. Premiums on livestock, poultry, agricultural and horticultural products, dairy products, boys' and girls' club work, products of domestic science and domestic arts, school exhibits, hand painting, decorating and drawing, manufactured articles, cultivated plants and flowers;

2. Necessary expenses of management of township and county fairs organized under the provisions of this article, including office expenses, postage, telegraph and telephone, salary and traveling expenses of the secretary, printing and necessary office supplies, premium ribbons and badges, clerical help, guards, superintendents and judges;

3. Advertising the fairs and for decorating and cleaning the grounds and buildings, and for caring for the grounds and buildings; and

4. Transportation and arrangement of township fair exhibits at the county fair and county fair exhibits at the Oklahoma State Fair and other State Fairs.

Added by Laws 1915, c. 179, § 7. Amended by Laws 1925, c. 38, p. 57, § 7; Laws 2001, c. 146, § 179, emerg. eff. April 30, 2001.

Renumbered from § 97 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-59. Tax levy - Amount - Purpose.

For the purpose of defraying the expense of holding county and township fairs, the excise board of each county may make an annual levy upon all taxable property in the county, of not exceeding one-half (1/2) of one (1) mill, per annum, which is hereby declared not to be a current expense and in addition to the maximum levy for current expenses now provided by law. The levy shall be for a special purpose. One-half (1/2) of the fund shall be known as the "free fair fund" and the other half of the fund shall be known as the 4-H Club, F.F.A., and Women's Home Demonstration Club Work Fund. Added by Laws 1915, c. 179, § 8. Amended by Laws 1921, c. 89, p. 114, § 3; Laws 1925, c. 38, p. 58, § 8; Laws 1939, p. 240, § 1; Laws 2001, c. 146, § 180, emerg. eff. April 30, 2001. Renumbered from § 98 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-60. Collection, apportionment and disbursement of funds - Eligibility of exhibitors.

A. The county treasurer shall collect and apportion monies for the county free fairs as other monies are collected and apportioned.

B. In school districts which overlap into adjoining counties, the levy for the free fair purposes shall be made and collected in the same manner as for school purposes.

C. The county treasurer shall disburse the monies from the levy upon vouchers issued by the executive board of the county free fair association, signed by the president and secretary of the same.

D. Residents of any school district which overlaps into any other county shall be eligible to exhibit their products at the fairs in the county in which the school district is located.

Added by Laws 1915, c. 179, § 9. Amended by Laws 1925, c. 38, p. 58, § 9; Laws 2001, c. 146, § 181, emerg. eff. April 30, 2001.

Renumbered from § 99 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-60.1. Repealed by Laws 2013, c. 118, § 25, eff. Nov. 1, 2013.

§2-15-60.2. Repealed by Laws 2013, c. 118, § 25, eff. Nov. 1, 2013.

§2-15-60.3. Repealed by Laws 2013, c. 118, § 25, eff. Nov. 1, 2013.

§2-15-60.4. Repealed by Laws 2013, c. 118, § 25, eff. Nov. 1, 2013.

§2-15-61. Township fairs - Cooperation with agricultural extension forces - Determination of number, time and place - Management - Selection and transportation of county fair exhibits.

A. The township fair shall be the unit of the free fair plan, and the county fair association shall cooperate with the state and federal agricultural extension forces in organizing boys' and girls' clubs, cooperative marketing associations, livestock improvement associations and such other agricultural organizations as are deemed advisable by the executive board.

B. The executive board:

1. Shall determine the number of township fairs and county or township livestock shows and other agricultural shows, to be held;

2. Shall fix the time and place of holding the fairs and shows; and

3. May provide that two or more townships or communities within the county may combine their exhibits in one township fair.

C. The management of the township fairs shall be under the direction of the township members and the secretary of the county fair association, who:

1. Must observe the rules of the executive board;

2. Shall select exhibits for the county fair; and

3. Shall transport the exhibits to the county fair.

Added by Laws 1915, c. 179, § 10. Amended by Laws 1925, c. 38, p. 58, § 10; Laws 1965, c. 395, § 2, emerg. eff. July 1, 1965; Laws 2001, c. 146, § 182, emerg. eff. April 30, 2001. Renumbered from § 100 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-62. Grounds and buildings - Cost not included in executive board's estimate - Fairs where provided free.

A. The executive board of the county fair association shall not include in its estimate the cost of grounds and buildings for township and county fairs.

B. The executive board may arrange for holding the fairs where suitable grounds and buildings will be provided free.

Added by Laws 1915, c. 179, § 11. Amended by Laws 1925, c. 38, p. 59, § 11; Laws 2001, c. 146, § 183, emerg. eff. April 30, 2001. Renumbered from § 101 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-63. Stand rights and privileges - Charges for admission to entertainments - Entertainment expenses not to be defrayed from money appropriated - Free access to exhibits.

The county fair association shall have exclusive rights to all stand rights and privileges of township and county fairs. Admission may be charged to any amusements or other forms of entertainment; provided, that:

1. No money collected pursuant to this section, shall be used to defray any expenses of costs of such amusements or entertainment; and

2. Charging admission to the amusements does not interfere with free access of the public to all exhibits.

Added by Laws 1915, c. 179, § 12. Amended by Laws 1925, c. 38, p. 59, § 12; Laws 2001, c. 146, § 184, emerg. eff. April 30, 2001. Renumbered from § 102 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-64. Use of money derived from rights and privileges.

All money derived from rights and privileges on the fair grounds, except as otherwise provided by Section 15-63 of this title, may be used in defraying expenses.

Added by Laws 1915, c. 179, § 13. Amended by Laws 1925, c. 38, p. 59, § 13; Laws 2001, c. 146, § 185, emerg. eff. April 30, 2001. Renumbered from § 103 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-65. Election to determine fair site and authorize construction and maintenance of buildings.

In any county of the State of Oklahoma, in which a free fair association is organized and operating under the laws of the state, an election may be held as provided in Section 15-68 of this title, for the purposes of determining a permanent free fair site and authorizing the construction and maintenance of buildings thereon.

Added by Laws 1929, c. 25, p. 21, § 1. Amended by Laws 2001, c. 146, § 186, emerg. eff. April 30, 2001. Renumbered from § 104 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-66. County free fair in each county - State not obliged to pay for fair.

There is hereby established and created in each county in this state a county free fair. The fair shall be held at such place in each of the counties as may have heretofore or may be hereafter designated by the county free fair board of each of the member counties to be known and designated as the (name of a county) county free fair association. The county free fair boards created pursuant to this section are not state institutions, and the State of Oklahoma shall not be obliged to pay for the fairs.

Added by Laws 1937, p. 273, § 1. Amended by Laws 1939, p. 241, § 1; Laws 2001, c. 146, § 187, emerg. eff. April 30, 2001. Renumbered from § 104a of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-67. "Free fair" defined - Power of governing board.

A. The term "free fair" as used in Section 15-66 of this title shall be construed to mean community and county fairs and livestock

shows and other agricultural shows where admission to the grounds and all exhibit buildings is free and no charge is made for entering exhibits on which premiums are offered.

B. The governing board shall have the power to designate the time, place and number of fairs and livestock shows and agricultural shows in each county.

Added by Laws 1937, p. 273, § 2. Amended by Laws 1939, p. 241, § 2; Laws 1965, c. 395, § 3, emerg. eff. July 1, 1965; Laws 2001, c. 146, § 188, emerg. eff. April 30, 2001. Renumbered from § 104b of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-68. Board of directors - Elections - Meetings.

A. There is hereby constituted a board of directors for the free fair association.

B. 1. The board of directors shall be composed of nine (9) members, who shall be by written ballot elected for a term of three (3) years. Three members shall be elected annually, one from each county commissioner's district of the counties, at a public meeting or convention of the qualified electors of each commissioner's district in the counties.

2. A qualified elector shall be a registered voter of the county and may only vote for the board members from the district in which the elector resides. The county commissioner holding the election may request proof of residency and a voter registration card of the county to qualify electors.

3. The board of county commissioners shall include in the publication notice of the election the requirements to be a qualified voter. Notice of the election shall be given by publication in a newspaper published in each of the counties for ten (10) days before the election. Notice of the filing period for the election shall be given in a newspaper published in the county, published one time at least ten (10) days before the filing period for the election.

C. The board of county commissioners shall, by resolution, set forth the following conditions concerning the election:

1. The filing period shall consist of five (5) consecutive business days and commence in January;

2. The date and time the filing period will commence and end;

3. The date, time and place of the election;

4. Only registered voters of the county are eligible to file as a candidate;

5. Any person so filing must reside in the commissioner's district or city they seek to represent;

6. Prospective candidates must file with the county clerk; and

7. The board of county commissioners shall prescribe a form to be used by prospective candidates filing for the position of director of the fair association board.

D. 1. The date of the election for the fair association board of directors shall be no later than three (3) weeks from the date of the final day of the filing period. If there is only one candidate for any of the commissioners' districts, the commissioners may cancel the election with notice being given by publication and posting at least ten (10) days prior to the election date previously established and the candidate shall be deemed to be elected.

2. In the event there is no candidate for the election to the fair association board of directors, the county commissioners shall appoint a director for each position for which no candidates have filed by the close of the filing period. The appointment or appointments will be announced no later than two (2) weeks from the closing of the filing period.

3. When a director is unable to fulfill the term to which the director has been elected to serve, for any reason, the board of county commissioners shall appoint the successor.

E. 1. At the annual election there shall be elected one (1) person from each commissioner's district who is a qualified elector of the district. Each shall serve as a director of the association for a term of three (3) years, and until a successor is elected or appointed and qualified.

2. The commissioner or commissioner's designee shall preside at the meeting and have the authority to appoint a secretary of the meeting. The commissioner and secretary shall certify to the county clerk of each of the counties the names of the directors elected, and the county clerk shall keep a record thereof and shall issue to each person elected a certificate of election.

F. When a tie vote occurs in the election of a fair association board of directors, the commissioner or commissioner's designee shall select the candidate by lot pursuant to the procedures set forth in Section 8-105 of Title 26 of the Oklahoma Statutes.

G. 1. The directors so elected shall meet at the next regularly scheduled monthly meeting immediately following the elections at the regular meeting place of the counties for the purpose of organization, and shall elect a president, a vice-president, a secretary and a treasurer; provided, that the secretary need not be a member of the board of directors.

2. The treasurer shall furnish a surety bond executed with a qualified surety company doing business in this state, in such amount as the directors of the board may determine to be necessary to indemnify against any loss which may arise by reason of failure to perform the necessary duties of the office or other misconduct in office for which the director shall be held liable.

H. Meetings of the directors may be called by the president of the board or fixed by the board at any time convenient. However, the first election held under this section shall be on the first Saturday

of June, and the board so elected at the election shall meet for organization purposes on the second Saturday of June of such year. Added by Laws 1937, p. 273, § 3. Amended by Laws 1951, p. 1, § 1; Laws 1992, c. 120, § 1, emerg. eff. April 23, 1992; Laws 1993, c. 114, § 1, eff. Sept. 1, 1993; Laws 1998, c. 15, § 1, eff. Nov. 1, 1998; Laws 2000, c. 243, § 117, emerg. eff. May 24, 2000; Laws 2001, c. 146, § 189, emerg. eff. April 30, 2001. Renumbered from § 104c of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001. Amended by Laws 2004, c. 447, § 1, emerg. eff. June 4, 2004; Laws 2012, c. 104, § 1, eff. Jan. 1, 2013; Laws 2013, c. 46, § 1, eff. Nov. 1, 2013.

§2-15-68.1. Repealed by Laws 2013, c. 46, § 2, eff. Nov. 1, 2013.

§2-15-68.2. Repealed by Laws 2013, c. 46, § 2, eff. Nov. 1, 2013.

§2-15-68.3. Repealed by Laws 2013, c. 46, § 2, eff. Nov. 1, 2013.

§2-15-68.4. Repealed by Laws 2013, c. 46, § 2, eff. Nov. 1, 2013.

§2-15-69. Control of fair and expenditures by board of directors - Annual budget - Township or district fairs and junior fat stock shows in certain counties.

A. The board of directors is hereby vested with:

1. Control of the fair;
2. The expenditure of all money levied and collected for the purpose of conducting the fair; and
3. The power and authority to do all acts and things necessary in the conduct of the fair and the management of its fiscal affairs.

B. The board shall prepare an annual budget for the fair, which shall be published according to the law provided for budget publications. The board shall file the annual budget with the county clerk of each of the member counties.

C. 1. The provisions of this section shall also apply to livestock shows, community and district fairs, and other agricultural shows authorized by the board of directors.

2. In counties having a population of more than fifty-five thousand (55,000), according to the 1940 Federal Decennial Census and in and for which county no state fair is provided by statute, it shall be the duty of the board of directors to:

- a. hold in addition to the county fair one or more township fairs, and/or district fairs within such county,
- b. designate the place and time for holding the fairs, and
- c. hold within such county, in addition to the fairs, a junior fat stock show with premiums the same as a fair at an appropriate time during the spring months for the

purpose of encouraging the youth of such county in the breeding and feeding of fat hogs, cattle, sheep and other livestock.

Added by Laws 1937, p. 274, § 4. Amended by Laws 1947, p. 2, § 1; Laws 1951, p. 2, § 1; Laws 1965, c. 395, § 4, emerg. eff. July 1, 1965; Laws 2001, c. 146, § 190, emerg. eff. April 30, 2001.

Renumbered from § 104d of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-70. County officers may make annual levy - Purpose of levy.

A. The county commissioners, the county excise board and all other proper officers of the county may make an annual levy upon all taxable property in the county in an amount not to exceed one-half ($1/2$) of one (1) mill per annum in counties of more than fifteen thousand (15,000) population. In counties of less than fifteen thousand (15,000) population, the proper officers of the county may make an annual levy upon all taxable property in the county of not exceeding one (1) mill per annum. The purpose of the levy is to raise funds for:

1. The support and maintenance of the fair, including the payment of premiums on livestock, poultry, agricultural and horticultural products, dairy products, boys' and girls' club work or other junior agricultural organizations which shall be in one class, products of domestic science and domestic arts, farm women's clubs, hand paintings, cultivated plants and flowers;

2. Necessary expenses of management of said fair, including office expenses, postage, telegraph and telephone, salary and traveling expenses of the secretary, printing and necessary office supplies;

3. Premium ribbons and badges, clerical help, guards, superintendents and judges;

4. Advertising, decorating and cleaning the grounds and buildings; and

5. The repair of or erecting buildings owned and controlled by said county that are or will be used for free fair purposes.

B. In the counties of this state having a population in excess of fifty-five thousand (55,000), according to the 1940 Federal Decennial Census and in which county there is not authorized a state fair, it shall be the mandatory duty of the county commissioners and the excise board and other officers of the county, to make annual levy for the purposes specified by this section upon all taxable property in such county of not less than one-fourth ($1/4$) of one (1) mill per annum.

Added by Laws 1937, p. 274, § 5. Amended by Laws 1939, p. 241, § 3; Laws 1947, p. 2, § 2; Laws 1951, p. 2, § 2; Laws 2001, c. 146, § 191, emerg. eff. April 30, 2001. Renumbered from § 104e of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-71. Provisions of act cumulative and controlling over conflicting laws.

It is hereby expressly provided that the provisions of this article shall be cumulative to all existing laws in the State of Oklahoma and where the provisions of this article conflict with any other laws of the State of Oklahoma the provisions of this article shall prevail.

Added by Laws 1939, p. 242, § 4. Amended by Laws 2001, c. 146, § 192, emerg. eff. April 30, 2001. Renumbered from § 104e.1 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-72. Budget and itemized estimate of needs.

The board of directors of a fair shall submit to the county commissioners and the excise board a budget and an itemized estimate of the needs of the fair. The levy shall be made for the purpose of taking care of the budget.

Added by Laws 1937, p. 274, § 6. Amended by Laws 2001, c. 146, § 193, emerg. eff. April 30, 2001. Renumbered from § 104f of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-73. Expenditure of funds.

The county treasurer, upon requisition therefor by the board of directors of a fair, shall pay over to the treasurer of the fair board the funds collected by virtue of the levy. The funds shall be paid out by the treasurer of the fair board upon vouchers and warrants issued by the board under such rules as the board may make.

Added by Laws 1937, p. 274, § 7. Amended by Laws 2001, c. 146, § 194, emerg. eff. April 30, 2001. Renumbered from § 104g of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-74. Grounds, buildings, concessions, advertising, etc. - Gifts and donations.

A. The board of directors shall have power to:

1. Acquire grounds for the fair by lease or purchase;
2. Erect buildings and repair the same;
3. Sell concessions, advertising and privileges at the fair; and
4. Accept gifts and donations.

B. All money received from sale of concessions and privileges, and all gifts and donations shall be paid to and deposited with the treasurer of the fair board, to be disbursed as provided in Section 15-75 of this title.

Added by Laws 1937, p. 274, § 8. Amended by Laws 2001, c. 146, § 195, emerg. eff. April 30, 2001. Renumbered from § 104h of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-75. Duties of officers of fair board.

A. The president of a fair board shall be the executive head of the association and perform all the duties usual to the office and enforce and carry out the orders and directions of the board.

B. The vice president shall act in the absence of the president.

C. The secretary shall be the clerk of the board and keep all the records and property of the association and shall keep an account of the money and property of the association and draw all warrants and orders on the treasurer.

D. The treasurer shall keep all monies and securities of the association and pay out the same upon the order and warrant of the board, attested by the president and secretary of the board.

Added by Laws 1937, p. 274, § 9. Amended by Laws 2001, c. 146, § 196, emerg. eff. April 30, 2001. Renumbered from § 104i of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-76. Terms of directors.

A. The directors elected at the first election held on the first Saturday in June, 1937, shall hold office; three for one (1) year, three for two (2) years, and three for three (3) years, so that annually thereafter there shall be elected three directors to serve for a term of three (3) years, and until their successors are elected and qualified.

B. At the first meeting of the directors on the second Saturday of June, 1937, the directors shall determine by lot or agreement who shall serve for the one-year, the two-year and the three-year terms. Added by Laws 1937, p. 275, § 10. Amended by Laws 2001, c. 146, § 197, emerg. eff. April 30, 2001. Renumbered from § 104j of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-77. Levy by excise board on failure of county commissioners to approve and submit estimates.

In case of failure of the county commissioners to approve and submit estimates to the excise board after having complied with the provisions of Section 15-72 of this title, the excise board of each of the member counties shall, upon application of the fair board, make the levy provided by Section 15-70 of this title, after publication of the estimates therefor as otherwise provided by law. Added by Laws 1937, p. 275, § 11. Amended by Laws 2001, c. 146, § 198, emerg. eff. April 30, 2001. Renumbered from § 104k of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-78. Effect on existing laws.

It is hereby expressly provided that the provisions of this article shall not repeal or modify existing laws relative to free fairs.

Added by Laws 1937, p. 275, § 12A. Amended by Laws 2001, c. 146, § 199, emerg. eff. April 30, 2001. Renumbered from § 104m of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-79. County free fair association - Conversion and establishment to association subject to §§ 15-66 through 15-78 of this title.

In each county in this state in which there has been established a county free fair association pursuant to the provisions of Sections 15-51 through 15-64 of this title, the board of directors of such fair association may, by resolution, convert and establish such association into a fair association of the same name which is subject to the provisions of Sections 15-66 through 15-78 of this title. Added by Laws 1992, c. 120, § 2, emerg. eff. April 23, 1992. Amended by Laws 2001, c. 146, § 200, emerg. eff. April 30, 2001. Renumbered from § 104n of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-80. Resolution of executive board - Submission of question - Time for calling election - Submission at regular election - Determination of site.

A. The board of county commissioners of a county, when requested so to do, by a proper resolution passed and presented by the executive board of the free fair association of the county, shall submit, to a vote of the county, the question of determining a permanent free fair site.

B. The board of county commissioners shall at the next regular meeting of such board determine whether such election shall be called. If the board decides to call an election, the election shall be called within sixty (60) days after the decision; or the board may submit such question at the next primary or general election thereafter. The permanent free fair site shall be determined by a majority of all legal votes cast in the election.

Added by Laws 1929, c. 25, p. 21, § 2. Amended by Laws 2001, c. 146, § 201, emerg. eff. April 30, 2001. Renumbered from § 105 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-81. Election proclamation - Publication - Contents.

A. The election, as provided in Section 15-80 of this title, shall be called and held pursuant to the provisions of this section.

B. The board of county commissioners shall cause to be published in a county newspaper of general circulation in the county, for four consecutive issues, a proclamation calling an election. The proclamation shall include a detailed statement of the proposition.

C. The proclamation shall state the exact method by which the electors shall vote their preference for the location of the free fair site.

Added by Laws 1929, c. 25, p. 21, § 3. Amended by Laws 2001, c. 146, § 202, emerg. eff. April 30, 2001. Renumbered from § 106 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-82. Resubmission of question - Time - Petition - Calling, advertisement and holding of election.

When any county has determined a free fair site pursuant to the provisions of Section 15-81 of this title, the question shall not again be submitted to a vote of the county within five (5) years from said date, and then only upon petition signed by twenty-five percent (25%) of the total number of votes cast at the last general election for the county office receiving the highest number of votes. The petition shall be in lieu of the resolution of the executive board of the free fair association, as provided in Section 15-80 of this title. The election shall be called, advertised and held in all other respects, as provided in Sections 15-80 and 15-81 of this title.

Added by Laws 1929, c. 25, p. 22, § 4. Amended by Laws 2001, c. 146, § 203, emerg. eff. April 30, 2001. Renumbered from § 107 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-83. Tax levy for free fair improvement fund - Election - Amount - Purpose.

A. At any election held under the provisions of Section 15-80 of this title, there may be also submitted to a vote of the legal voters of the county, under the same conditions as provided in Section 15-80 of this title, the question of authorizing and directing the excise board of such county to make an annual levy of not to exceed one (1) mill, for not to exceed five (5) succeeding years, to provide a "free fair improvement fund". The fund shall be used for the purpose of securing suitable grounds, making improvements thereon and maintaining the same. The fund shall be for a special purpose.

B. The levy shall be in addition to the maximum levy for current expenses now provided by law.

Added by Laws 1929 c. 25, p. 22, § 5. Amended by Laws 2001, c. 146, § 204, emerg. eff. April 30, 2001. Renumbered from § 108 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-84. County bond issues for purchase and improvement of lands and construction of buildings.

All counties in the State of Oklahoma are hereby authorized to issue bonds for the purpose of purchasing lands, improving such lands, and constructing buildings thereon for free fair purposes.

Added by Laws 1929, c. 26, p. 22, § 1. Amended by Laws 2001, c. 146, § 205, emerg. eff. April 30, 2001. Renumbered from § 109 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-85. Bond election - Proclamation - Publication - Time for election.

A. The board of county commissioners in each county of this state is hereby authorized and empowered to call an election for the purpose of issuing bonds to purchase lands, improve the same, and to construct buildings thereon for free fair purposes. The lands and improvements thereon shall be owned and controlled by such counties.

B. The commissioners shall call the election by issuing a proclamation therefor and giving notice thereof in four consecutive issues of a weekly newspaper published in and of general circulation in the county proposing to issue the bonds.

C. No election shall be held until the expiration of thirty (30) days following the date of the first publication of the proclamation. Added by Laws 1929, c. 26, p. 22, § 2. Amended by Laws 2001, c. 146, § 206, emerg. eff. April 30, 2001. Renumbered from § 110 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-86. Election proclamation - Contents.

The proclamation calling an election shall:

1. Name the amount of bonds to be issued;
2. The time said bonds shall run;
3. The maximum rate of interest said bonds shall bear; and
4. The time for holding the election.

Added by Laws 1929, c. 26, p. 23, § 3. Amended by Laws 2001, c. 146, § 207, emerg. eff. April 30, 2001. Renumbered from § 111 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-87. Conduct of election - Canvass of returns.

The election shall be conducted by the duly qualified election officials of the county. The returns of the election shall be canvassed by the county election board.

Added by Laws 1929, c. 26, p. 23, § 4. Amended by Laws 2001, c. 146, § 208, emerg. eff. April 30, 2001. Renumbered from § 112 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-88. Vote for bond issue - Issuance and sale of bonds - Sale price - Deposit and disbursement of proceeds.

A. If the three-fifths of the voters voting at the election vote in favor of the issuance of the bonds, the board of county commissioners shall proceed at once to issue the bonds and sell the bonds in the manner now provided by law for the sale of municipal and county bonds.

B. The bonds shall not be sold for less than par and accrued interest.

C. The proceeds of the bonds shall be deposited in the county treasury to be paid out by the treasurer upon warrants authorized to be issued by the board of county commissioners.

Added by Laws 1929, c. 26, p. 23, § 5. Amended by Laws 2001, c. 146, § 209, emerg. eff. April 30, 2001. Renumbered from § 113 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-89. Bonds - Interest - Denominations - Payment - Signatures - Attestation - Registration - Sale - Issuance and delivery - Deposit by purchaser - Tender of bonds - Rejection of bids - Resale.

A. The bonds issued shall bear interest at a rate not to exceed the maximum rate provided by Section 498.1 of Title 62 of the Oklahoma Statutes, per annum, payable semiannually, and shall be issued in denominations of One Hundred Dollars (\$100.00), or any multiple thereof not to exceed One Thousand Dollars (\$1,000.00).

B. The entire amount of the bond issue shall be payable within twenty-five (25) years. The bonds shall be signed by the chairman of the board of county commissioners and attested by the county clerk. Facsimile signatures may be used as provided in the Registered Public Obligations Act of Oklahoma. The bonds shall be registered in the office of the county clerk and in the office of the county treasurer or by their authorized agent.

C. All bonds shall be sold to the bidder who will pay therefor par and accrued interest, and who shall stipulate in his or her bid the lowest rate of interest which the bonds shall bear.

D. Upon the acceptance of the bid, the bonds shall be issued in accordance therewith and shall be delivered to the purchaser upon payment of the purchase price thereof. The bidder shall submit with his or her bid a sum in cash, or its equivalent, equal to two percent (2%) of his or her bid. Upon acceptance of any bid, the deposit shall become the property of the county selling the bonds, and shall be credited to the purchase price thereof upon the understanding that if the purchaser fails to pay the balance of the purchase price within five (5) days after the tender of the bonds, the sale shall be thereby annulled, and the deposit shall be retained by the county commissioners and credited to the account for which such bonds are being issued.

E. No tender of the bonds shall be valid until after the expiration of the period of contestability as now provided by law. All other deposits shall be returned.

F. The county commissioners selling such bonds shall have the right to reject all bids and readvertise the bonds for sale.

Added by Laws 1929, c. 26, p. 23, §6. Amended by Laws 1983, c. 170, § 12, eff. July 1, 1983; Laws 2001, c. 146, § 210, emerg. eff. April 30, 2001. Renumbered from § 114 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-90. Tax levy to pay interest and principal.

It shall be the duty of the officers charged by law with levying taxes for county purposes to:

1. Levy annually an amount sufficient to pay the interest due each year on the bonds issued; and

2. Levy an amount sufficient to pay the principal as the same falls due.

Added by Laws 1929, c. 26, p. 24, § 7. Amended by Laws 2001, c. 146, § 211, emerg. eff. April 30, 2001. Renumbered from § 115 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-91. Disposition of proceeds of bonds - Purchase of land - Construction of buildings - Improvement and beautification.

Out of the proceeds of the sale of the bonds, the board of county commissioners shall purchase lands and construct buildings thereon for the county free fair. In purchasing the lands and constructing the buildings thereon, the county commissioners shall also have the right to improve and beautify the lands.

Added by Laws 1929, c. 26, p. 24, § 8. Amended by Laws 2001, c. 146, § 212, emerg. eff. April 30, 2001. Renumbered from § 116 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-92. Tax levy for additional improvements - Power to levy and include in estimate - Amount and purpose.

A. The board of county commissioners of any county which has acquired free fair lands and buildings pursuant to Section 15-91 of this title or pursuant to any other act of the Legislature is authorized to levy and include in the estimate of the county, submitted to the county excise board, a county ad valorem tax of not to exceed one (1) mill on the dollar valuation for the purpose of making additional free fair improvements, such as purchasing additional lands, constructing additional buildings, beautifying and improving the lands and repairing the free fair buildings.

B. Said levy shall not be for a current expense but shall be for a special purpose and for a special fund to be known as the free fair improvement fund. The levy shall be in addition to the maximum statutory levy authorized to be made for current expense purposes. The levy shall also be in addition to the county free fair levy authorized to be made for the support and maintenance of the county free fair.

Added by Laws 1929, c. 26, p. 24, § 9. Amended by Laws 2001, c. 146, § 213, emerg. eff. April 30, 2001. Renumbered from § 117 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-93. Lands upon which buildings for county free fairs may be constructed.

A. Buildings for the purposes of any county free fair, which fair exists under any law of this state, may be constructed either upon land owned by the county or upon land which has been leased to the county for a period of not less than fifty (50) years from the

time the construction of any such building has started. Any such building may be constructed on leased land owned or leased by the United States or any agency thereof, if not contrary to any conditions imposed by the United States or the agency relating to the land, notwithstanding the fact that the United States or the agency retains the right to take possession of such land in the event of a national emergency.

B. The provisions of this section shall be applicable regardless of the source of the funds from which any such building is constructed.

Added by Laws 1961, p. 9, § 1. Amended by Laws 2001, c. 146, § 214, emerg. eff. April 30, 2001. Renumbered from § 118 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-94. Use of monies received from rents on certain buildings.

A. Monies received as a result of renting or leasing any building or structure or any portion thereof, located on any county fairground which the county received as a gift from an individual citizen who was a resident of the county may be used by the county fair board for maintenance and repair of such originally donated building.

B. The receipts shall not be subject to fiscal year cancellations but may be retained in a proper account from year to year up to a maximum of a Fifteen Thousand Dollar (\$15,000.00) balance.

C. Any amount of a balance over Fifteen Thousand Dollars (\$15,000.00) at the end of each fiscal year which has been derived from such rental or lease contract shall be transferred to the county general fund.

Added by Laws 1963, c. 172, § 1, emerg. eff. June 6, 1963. Amended by Laws 1980, c. 40, § 1, emerg. eff. March 26, 1980; Laws 2001, c. 146, § 215, emerg. eff. April 30, 2001. Renumbered from § 119 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-95. Consent to expenditures by county commissioners.

A. Prior to the expenditure or the contracting for the expenditure of a sum in excess of Five Hundred Dollars (\$500.00), the county fair board shall present a notice of intent to the board of county commissioners setting forth:

1. The expected sum to be expended;
2. The reason for expending the sum of money; and
3. The anticipated amount of said expenditure. The county fair board shall secure from the board of county commissioners consent for such expenditure.

B. Nothing in this section shall be construed to authorize the fair board to purchase materials, services or equipment except in

compliance with the requirements of the law otherwise governing such purchases.

Added by Laws 1963, c. 172, § 2, emerg. eff. June 6, 1963. Amended by Laws 2001, c. 146, § 216, emerg. eff. April 30, 2001. Renumbered from § 120 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-96. Contracts for construction of buildings and other structures - Financing.

A. The board of directors of any county fair association is authorized to enter into agreements with other persons, firms or corporations, the terms of which provide for the construction of buildings or other structures upon the property used by the associations for fairs, exhibitions and other events. The funds to be made available for the contracts authorized by this section shall be derived only from the operation of the fairgrounds, gifts or donations received for such purpose.

B. The use of appropriated public funds or tax receipts to pay for such structures is expressly prohibited and no liability shall be incurred by the board of county commissioners or public body in the event of default on such contracts.

Added by Laws 1965, c. 186, § 1, emerg. eff. June 7, 1965. Amended by Laws 2001, c. 146, § 217, emerg. eff. April 30, 2001. Renumbered from § 121 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-15-111. Association may be converted into one with specified duties, powers and liabilities.

In each county in this state in which there has been established a county free fair association under the 1937 Free Fair Act, as amended in 1939, in which county bonds for free fair purposes have been voted and issued since the effective date of the 1939 amendment, as provided in Sections 15-84 through 15-92 of this title, the board of directors of the fair association may, by resolution, if approved by the board of county commissioners, establish and convert the association into a similar fair association of the same name with the duties, powers and liabilities specified by Sections 15-112 through 15-127 of this title.

Added by Laws 1947, p. 3, § 1. Amended by Laws 2001, c. 146, § 218, emerg. eff. April 30, 2001. Renumbered from § 131.1 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-15-112. Board of directors, how composed.

The board of directors of the fair association shall consist of one member from each of the commissioners' districts in the county. If the county contains a city of over twenty thousand (20,000) population, according to the last Federal Decennial Census, the

directors shall be elected from the rural parts of the commissioners' districts only, and in addition thereto, two members of the board shall be elected from the city.

Added by Laws 1947, p. 3, § 2. Amended by Laws 2001, c. 146, § 219, emerg. eff. April 30, 2001. Renumbered from § 131.2 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-15-113. Election of board of directors - Appointment of directors.

A. Within thirty (30) days of the establishment of a fair association, the board of county commissioners shall, by resolution, call for an election of the fair association board of directors. Notice of the elections shall be given in a newspaper published in the county at least ten (10) days before election. Notice of the filing period for the elections shall be given in a newspaper published in the county at least ten (10) days before the filing period for the election. The board of county commissioners, by resolution, shall set forth the following conditions concerning the election:

1. The filing period shall consist of five (5) consecutive business days;

2. Only registered voters of the county are eligible to file as a candidate;

3. Any person so filing must reside in the commissioner's district or city they seek to represent;

4. Prospective candidates must file with the county clerk;

5. The board of county commissioners shall prescribe a form to be used by prospective candidates filing for the position of director of the fair board association; and

6. The date of the election for the fair association board of directors shall be no later than three (3) weeks from the date of the final day of the filing period.

B. If a district or city does not have a candidate or candidates for the position, the representative or representatives shall be appointed as follows:

1. The board of county commissioners shall appoint the representatives from the rural areas of the county;

2. The mayor of the city shall appoint the representatives from the city; and

3. In the event there is not a candidate for election to the fair association board of directors the appointment will be announced no later than two (2) weeks from the closing of the filing period.

C. The site of the elections shall be determined by the board of county commissioners. Elections shall be held at a convenient place in each district or city, on the same day and at the same time. The county commissioner representing the district or an official designee of the commissioner shall preside at the election.

D. The election shall be by secret ballot.

E. Only registered voters of the county shall be allowed to vote.

F. The results of the election shall be tabulated at the site of the election and announced prior to the adjournment of the election meeting.

G. When a tie vote occurs in the election of a fair association board of directors, the commissioner or commissioner's designee shall select the candidate by lot, pursuant to the procedures set forth in Section 8-105 of Title 26 of the Oklahoma Statutes.

H. Initial terms of the directors:

1. The director from commissioner's district one shall be elected for a term of one (1) year;

2. The director from commissioner's district two shall be elected for a term of two (2) years; and

3. The director from commissioner's district three shall be elected for a term of three (3) years.

The term of each director elected subsequent to the initial term shall be for a period of three (3) years.

I. If there is a city in the county with a population of more than twenty thousand (20,000) according to the latest federal census, the board of county commissioners shall in the following manner cause to be elected two directors to represent the city on the fair association board of directors:

1. The county clerk or an official designee of the clerk shall preside at election in the city;

2. The candidate receiving the highest number of the ballots cast shall be elected for a three-year term;

3. The candidate receiving the second highest number of votes shall be elected for a two-year term; and

4. If, by the close of the filing period, a district or city is without a candidate for the position of fair board director, the board of county commissioners shall appoint a person to serve on the fair association board of directors to represent the respective district and the mayor of the city shall make the appointments for the two city representatives.

Added by Laws 1993, c. 114, § 2, eff. Sept. 1, 1993. Amended by Laws 1994, c. 154, § 1, emerg. eff. May 6, 1994; Laws 2001, c. 146, § 220, emerg. eff. April 30, 2001. Renumbered from § 131.3A of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-15-114. Election or appointment of successors - Terms - Organization of board.

A. Upon the expiration of the term to which each director has been elected or appointed, the board of county commissioners shall:

1. Cause the filing period for the position of director to the fair board association to commence in January; and

2. Provide for the election or appointment of the director in accordance with the provisions as set forth in Section 15-113 of this title.

B. The director shall be elected or appointed to the board of directors for a term of three (3) years.

C. The commissioner or county clerk presiding at such meeting shall certify and file in the office of the county clerk the name or names of the directors elected. The county clerk shall keep a record thereof and shall issue to each person elected a certificate of election.

D. The board of directors shall, within ten (10) days after appointment and taking oath of office, organize by electing a president, vice president, secretary and treasurer, who shall hold office at the pleasure of the board. The secretary shall not be a member of the board of directors.

Added by Laws 1947, p. 4, § 4. Amended by Laws 1993, c. 114, § 3, eff. Sept. 1, 1993; Laws 2001, c. 146, § 221, emerg. eff. April 30, 2001. Renumbered from § 131.4 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-15-115. General powers and authority - Report.

A. The board of directors shall have the power, authority and control over any agricultural and industrial exposition and fair, and the management, operation and conducting of the exposition and fair.

B. The board shall at the end of each calendar year, and in any event not later than thirty (30) days thereafter, make and file under oath, with the board of county commissioners, a complete detailed report of all their transactions of business and finance for the year. When approved by the board of county commissioners, the report shall be filed with the county clerk.

Added by Laws 1947, p. 4, § 5. Amended by Laws 2001, c. 146, § 222, emerg. eff. April 30, 2001. Renumbered from § 131.5 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-15-116. President of board - Secretary - Custodian of funds.

A. The president of the board of directors shall be the presiding officer of the board and shall:

1. Perform the usual duties incumbent upon such officer; and
2. Ensure compliance with all orders of the board.

B. The secretary of the board shall be the recording officer and shall:

1. Keep and have supervision over all records;
2. File and safely keep all documents of the agricultural and industrial exposition and fair;
3. At all times be subject to the order and direction of the board of directors; and

4. Perform all duties imposed upon him or her by the board of directors compatible with the duties of such office.

C. The county treasurer shall be the custodian of all funds. All receipts and revenue set apart for the benefit of and belonging to such agricultural and industrial exposition and fair shall be currently deposited with the county treasurer. All disbursements of revenue shall be made through the county treasurer in the manner and form as provided in Section 15-121 of this title.

Added by Laws 1947, p. 4, § 6. Amended by Laws 2001, c. 146, § 223, emerg. eff. April 30, 2001. Renumbered from § 131.6 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-15-117. Members not paid - Salary and bond of secretary.

No member of the board of directors shall be paid nor receive any salary, compensation, nor emolument for his or her services in connection with such agricultural and industrial exposition and fair. The secretary shall be paid a salary to be fixed by the board of directors to be paid in equal monthly installments. The secretary shall give a surety bond in an amount to be fixed by the board of directors and to be approved by the board payable to the county and conditioned for the faithful performance of duties. The premium for the bond shall be paid by the board of directors out of the free fair funds.

Added by Laws 1947, p. 4, § 7. Amended by Laws 2001, c. 146, § 224, emerg. eff. April 30, 2001. Renumbered from § 131.7 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-15-118. Annual exposition, holding of.

A. The board of directors shall:

1. Provide for holding annually at the fairgrounds of the county an agricultural and industrial exposition and fair for the purpose of exhibiting and displaying resources connected with or part of agricultural, horticultural, mineral, mechanical, and industrial development and the raising of livestock not only from Oklahoma but from any other state or place;

2. Have the power and authority in order to encourage the exhibiting and displaying of such resources and livestock to offer and pay suitable premium and awards and to grade and classify all exhibits entered in competition at such exposition and fair;

3. Have the power and authority to employ all necessary assistants and provide for the payment of a reasonable salary or compensation to such employees.

B. If the board of directors decides that it is impractical to hold an exhibition or fair in any year, the board may postpone the exhibition or fair to such time as it would be advisable to hold the exhibition or fair, whether in the same year or a succeeding year.

Added by Laws 1947, p. 4, § 8. Amended by Laws 2001, c. 146, § 225, emerg. eff. April 30, 2001. Renumbered from § 131.8 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-15-119. Exhibitions, contests and other events.

In addition to the powers specified by law, the board of directors shall have the power and authority to provide for during the agricultural and industrial exposition and fair or at any other time:

1. Exhibitions and contests of speed, athletic skill and other events of public and civic interest and benefit, and award suitable prizes and purses therefor; and
2. The collection of reasonable admission into the exposition or fair and rental fees therefrom by activities specified in this section.

Added by Laws 1947, p. 5, § 9. Amended by Laws 2001, c. 146, § 226, emerg. eff. April 30, 2001. Renumbered from § 131.9 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-15-120. Fees and charges.

A. The board of directors is hereby given the power and authority to provide for and collect the following fees and charges:

1. A reasonable general admission fee per person, except that no admission charges or fees shall be exacted from persons exhibiting items such as natural resources or livestock;
2. A reasonable fee for merchants display space and concessions;
3. A reasonable fee as rental for barns, pens and other buildings;
4. A reasonable entrance fee and stall rent sufficient to maintain stalls in a clean and sanitary condition and for light, fuel and water service;
5. A reasonable charge for parking cars or other vehicles;
6. A reasonable entrance fee to persons desiring to enter into competition in exhibitions of speed and athletic skill; and
7. A reasonable admission fee to persons desiring to enter the enclosure in which such exhibitions are held to witness the exhibitions.

B. During the agricultural and industrial exposition and fair, a day may be set apart for school children in cities and towns and a day for school children in rural communities to allow such children to be admitted free into the agricultural and industrial exposition and fair.

C. All fees and charges authorized by this section to be collected shall be used exclusively for premiums and the operating and conducting of the agricultural and industrial exposition and fair and maintenance and repair of buildings and upkeep of the grounds, and construction of new buildings as needed.

Added by Laws 1947, p. 5, § 10. Amended by Laws 2001, c. 146, § 227, emerg. eff. April 30, 2001. Renumbered from § 131.10 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-15-121. Accounts - Disbursements.

A. The county treasurer shall set up two accounts of funds in the name of the exposition and free fair:

1. One account shall be designated as "tax account". The ad valorem taxes herein authorized to be appropriated pursuant to this section when collected shall be credited to the account; and

2. The other account shall be designated "miscellaneous revenue account". Miscellaneous revenue shall include ticket sales and exposition space sales authorized to be collected pursuant to this section and any other revenue not derived from taxes shall be credited to the miscellaneous revenue account, when paid to such treasurer.

B. 1. All disbursement of funds from the tax account of the agricultural and industrial exposition and fair, except as otherwise provided for in this section and as otherwise provided by law governing the general funds of said county, shall be made upon sworn, itemized claims allowed by the board of directors and the board of county commissioners in the same manner as other county claims; and

2. Disbursement of funds from the miscellaneous revenue account shall be made in cash voucher claims allowed by the secretary of the board of directors.

C. Such claims shall be itemized and sworn to by claimants, and when allowed by the secretary of the board of directors, shall be filed with the county clerk of the county whose duty it shall be to forthwith issue a cash voucher to the county treasurer directing him or her to pay the claim out of the cash on hand and to the credit of such agricultural and industrial exposition and fair. No cash voucher claim shall be allowed nor filed and no cash voucher issued in payment thereof in excess of the cash actually on hand and in the possession of the county treasurer at the time of presentation for payment. No contract, debt nor obligation authorized or created by the board of directors in excess of the income realized shall be valid.

D. Premiums and prizes may be paid in cash immediately from the cash receipts of the fair without first being deposited with the county treasurer, in which event such payments must be itemized separately and distinctly in the annual account as a premium or prize paid with cash from current receipts.

Added by Laws 1947, p. 5, § 11. Amended by Laws 2001, c. 146, § 228, emerg. eff. April 30, 2001. Renumbered from § 131.11 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-15-122. Expenses of operating fair - Unused funds - Transfer of funds of existing association.

A. All expenses of operating the free fair, including awards and prizes, shall be paid first from the tax account and second from the miscellaneous revenue account. Any funds remaining in the miscellaneous revenue account shall be appropriated for the next fiscal year to be used for maintenance, construction or any other proper purpose to be determined by the fair board.

B. Any and all funds on hand to the credit of any existing free fair association in any such county shall be immediately transferred to the credit of the association upon the election of the board of directors.

Added by Laws 1947, p. 6, § 12. Amended by Laws 2001, c. 146, § 229, emerg. eff. April 30, 2001. Renumbered from § 131.12 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-15-123. Appropriations by boards of county commissioners.

A. It shall be the mandatory duty of the board of county commissioners of any counties to include in the estimates of needs for any such counties for each fiscal year, whether an exposition and fair is held in such year or not:

1. Unless a lesser sum is requested by the board of directors; and

2. A sum not less than Eight Thousand Dollars (\$8,000.00) in counties having a net assessed valuation, as provided in Section 1, Chapter 6, Title 19, Oklahoma Session Laws 1943, at the time the appropriation is made of not less than Thirty-five Million Dollars (\$35,000,000.00) and not more than Forty Million Dollars (\$40,000,000.00); or a sum of not less than Ten Thousand Dollars (\$10,000.00) in counties having such a net assessed valuation at the time the appropriation is made of more than Forty Million Dollars (\$40,000,000.00) but not more than Forty-five Million Dollars (\$45,000,000.00); or a sum not less than Twelve Thousand Dollars (\$12,000.00) in counties having such a net assessed valuation at the time the appropriation is made of more than Forty-five Million Dollars (\$45,000,000.00).

B. The money shall be used by the board of directors for:

1. The payment of premiums, salaries, and other expenses incurred in the management, operation and conducting of a exposition and fair, including the salary of the secretary-treasurer and office employees, and secretary's bond premium;

2. The maintenance of buildings and the upkeep of grounds, the construction of new buildings, or either of such purposes; and

3. Any other expense incidental to the general purposes of this subsection.

C. The amount appropriated shall be a part of the current expenses of the county, and it is hereby made the mandatory duty of

the excise board of the county establishing an exposition and fair to approve the amount so estimated for the purposes by the board of county commissioners.

D. The miscellaneous income received by the board of directors during any year shall not be taken into consideration as a part of the estimated income used in financing the estimated needs of the county. The estimated needs shall be exclusive of the estimated miscellaneous income.

Added by Laws 1947, p. 6, § 13. Amended by Laws 2001, c. 146, § 230, emerg. eff. April 30, 2001. Renumbered from § 131.13 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-15-124. Ownership of property - Use - Lease or rent.

A. All property heretofore acquired by any county by virtue of the provisions of various legislative acts for expositions and free fair purposes is hereby declared to be the property of such county coming within the provisions of this article, and is hereby placed under the custody and control of the board of county commissioners in such county the same as other county property. The property shall be used for the purposes of carrying out the provisions of Sections 15-111 through 15-127 of this title.

B. The board of directors of an exposition and fair shall have the right to:

1. Lease or rent any of the property belonging to it, including, but not limited to, all grounds, buildings and equipment of the exposition and fair, for any purpose, and upon such terms as they deem proper, during such time as the same is not being used for exposition and fair purposes; and

2. Use the proceeds of such lease or rental for the general purposes of Sections 15-111 through 15-127 of this title.

Added by Laws 1947, p. 6, § 14. Amended by Laws 2001, c. 146, § 231, emerg. eff. April 30, 2001. Renumbered from § 131.14 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-15-125. Lease of grounds, buildings and equipment - Lease of sites for buildings - Contracts for erection of buildings.

A. The board of directors may, and if in its judgment it will be to the best interest of the people of said county, lease the grounds, buildings and equipment, or any part thereof, to any person, firm, corporation or association for any purpose whatsoever on any terms deemed reasonable by said board of directors, including housing animals or equipment or holding exhibitions or contests, or for the exhibition or contest of any rodeo, baseball, football or any other game, display or contest, either occasionally or annually, as long as such lease does not interfere with or is in connection with the holding of an annual free fair.

B. The board of directors may also, with the approval of the board of county commissioners, enter into a lease of a portion or site on the grounds for any term of years they deem reasonable with any person, firm or corporation for the erection and maintenance of a building or buildings by the party for permanent displays or housing equipment or for the permanent housing or shelter of livestock, or for any other purpose which may benefit the county free fair association or any of its activities and as long as said lease or leases do not interfere with or are in connection with the holding of an annual free fair.

C. The board may contract with any person, firm or corporation for the erection of a building by such person, firm or corporation on a specified site to be used by such party, with the provision that the building shall become the property of the free fair association at the termination of any number of years to be agreed upon.

Added by Laws 1947, p. 7, § 15. Amended by Laws 2001, c. 146, § 232, emerg. eff. April 30, 2001. Renumbered from § 131.15 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-15-126. Use of grounds for charitable, religious, patriotic or eleemosynary purposes.

The board of directors may permit the free use of the fairgrounds or any of its facilities for entertainments, exhibitions or displays of interest to the public where no admission is charged if the proceeds thereof are wholly for charitable, religious, patriotic or eleemosynary purposes.

Added by Laws 1947, p. 7, § 16. Amended by Laws 2001, c. 146, § 233, emerg. eff. April 30, 2001. Renumbered from § 131.16 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-15-127. Gifts of money or property.

The board of directors may accept and use gifts of money or property on behalf of the fair and use it for general free fair purposes. The board of directors may also give the donor the right to use such property for a period of time as the donor may desire.

Added by Laws 1947, p. 7, § 17. Amended by Laws 2001, c. 146, § 234, emerg. eff. April 30, 2001. Renumbered from § 131.17 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-15-141. Establishment of expositions and fairs.

For the purpose of cooperating with the development of agricultural, mineral and industrial resources and the educational facilities of the state, there may be established in all counties of the State of Oklahoma agricultural and industrial expositions and fairs, in the manner provided pursuant to Sections 15-142 through 15-147 of this title.

Added by Laws 1970, c. 335, § 1. Amended by Laws 1971, c. 100, § 1, emerg. eff. April 24, 1971; Laws 2001, c. 146, § 235, emerg. eff. April 30, 2001. Renumbered from § 157.1 of this title by Laws 2001, c. 146, § 271, emerg. eff. April 30, 2001.

§2-15-142. Method of establishment.

In any county in this state coming within the provisions of Section 15-141 of this title, the board of county commissioners may, by a resolution entered of record in the commissioners' journal of proceedings, disclose its intention to avail such county of the provisions and terms of Sections 15-141 through 15-147 of this title, and within thirty (30) days after entry of the resolution of record, the board of county commissioners shall meet for the purpose of placing in force and effect the provisions of Sections 15-141 through 15-147 of this title.

Added by Laws 1970, c. 335, § 2, emerg. eff. April 23, 1970. Amended by Laws 2001, c. 146, § 236, emerg. eff. April 30, 2001. Renumbered from § 157.2 of this title by Laws 2001, c. 146, § 271, emerg. eff. April 30, 2001.

§2-15-143. Lease to Public Trust Authority - Powers and duties of Authority.

A. The board of county commissioners of any county qualifying, pursuant to Section 15-142 of this title, may lease the grounds, buildings, equipment and facilities owned and acquired by the county for the purpose of conducting annual agricultural and industrial fairs and expositions to a Public Trust Authority, created pursuant to the laws of the State of Oklahoma as they relate to public trusts, for the purposes of managing the grounds, buildings, equipment and facilities as well as conducting annual agricultural and industrial fairs and expositions.

B. The Public Trust Authority shall have all rights, powers, authority, duties and responsibilities which are now or hereafter provided by general law for public trusts in Oklahoma, pursuant to Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes, and the Oklahoma Trust Act, which are not inconsistent with the provisions of this article.

C. The Trust Authority, with the approval of the county commission, may issue revenue bonds for not to exceed twenty-five-year terms in accordance with trust laws of the State of Oklahoma.

D. The trust may sublease any facilities, provided any lease in excess of two (2) years shall be approved by the board of county commissioners.

E. Any capital expenditure in excess of One Hundred Thousand Dollars (\$100,000.00) on any project shall not be made without prior approval of the board of county commissioners.

Added by Laws 1970, c. 335, § 3, emerg. eff. April 23, 1970. Amended by Laws 2001, c. 146, § 237, emerg. eff. April 30, 2001. Renumbered from § 157.3 of this title by Laws 2001, c. 146, § 271, emerg. eff. April 30, 2001.

§2-15-144. Membership - Qualifications and terms - Vacancies.

A. The Trust Authority shall be composed of from nine to twenty-one trustees, to be determined by the board of county commissioners in multiples of three. Each county commissioner shall appoint the same number of trustees for three-year terms and such terms shall be staggered, all subject to confirmation by the board of county commissioners.

B. It is the legislative intent that the appointment of trustees made by the commissioners, insofar as possible, shall represent the full geographical area of the county and all areas of participation in the fair and fairground operations. As soon as practicable after the act becomes in force and effect, the board of county commissioners of any such county shall appoint the trustees of the Trust Authority as provided in this subsection, and the terms of such trustees shall be as follows:

1. The first one-third of said trustees appointed shall serve for an initial term of one (1) year each from the date of their appointment;

2. The next one-third of said trustees shall serve for an initial term of two (2) years from the date of their appointment; and

3. The next one-third of said trustees shall serve for an initial term of three (3) years from the date of their appointment.

C. After expiration of the initial terms, the term of said trustees shall be three (3) years.

D. All trustees of the Trust Authority shall serve as such without compensation, and the appointed trustees shall hold no other municipal, county, state or federal elective office.

E. A vacancy occurring other than through the expiration of a term shall be filled for the remainder of the unexpired term by the commissioner who made the appointment that becomes vacant.

Added by Laws 1970, c. 335, § 4, emerg. eff. April 23, 1970. Amended by Laws 2001, c. 146, § 238, emerg. eff. April 30, 2001. Renumbered from § 157.4 of this title by Laws 2001, c. 146, § 271, emerg. eff. April 30, 2001.

§2-15-145. Personal interest in contracts.

A. No trustee, officer or employee of such Public Trust Authority shall be a party either directly or indirectly, to any contract or agreement with such Public Trust Authority from which he or she may derive any personal gain or profit.

B. If any contract or agreement is made in violation of the provisions of this section, the contract or agreement shall be null

and void and no action shall be maintained thereon against such Public Trust Authority. Any contract or agreement made in violation of the provisions of this section shall constitute cause for the immediate removal of such member, trustee, officer or employee executing the contract or agreement.

C. This section shall not prohibit any trustee or employee from participating in exhibits at the annual fair and events. Added by Laws 1970, c. 335, § 5, emerg. eff. April 23, 1970. Amended by Laws 2001, c. 146, § 239, emerg. eff. April 30, 2001. Renumbered from § 157.5 of this title by Laws 2001, c. 146, § 271, emerg. eff. April 30, 2001.

§2-15-146. Director - Legal counsel.

A. The Trust Authority shall employ a director who shall be paid a reasonable salary to be fixed by the Trust Authority. The director shall give a surety bond in the sum of not less than Fifty Thousand Dollars (\$50,000.00) the specific amount to be determined by the Trust Authority. The bond shall be approved by and made payable to the Trust Authority. The premium for said bond shall be paid by the Trust Authority.

B. The Trust Authority may employ all employees necessary for the purposes of Sections 15-141 through 15-147 of this title and provide for the payment of reasonable salaries, wages, or compensation to such employees.

C. The Trust Authority may elect to place the director and employees under the employees benefits provided by the board of county commissioners for other county employees. The cost of such benefits shall be paid by the Trust Authority.

D. The district attorney shall be authorized to represent the Trust Authority. Provided, however, the trustees may elect to employ their own legal counsel, subject to the approval of the board of county commissioners. In the event the district attorney certifies it is not practical for him or her to represent the trustees, then the district attorney shall not be required to represent the trustees.

Added by Laws 1970, c. 335, § 6, emerg. eff. April 23, 1970. Amended by Laws 2001, c. 146, § 240, emerg. eff. April 30, 2001. Renumbered from § 157.6 of this title by Laws 2001, c. 146, § 271, emerg. eff. April 30, 2001.

§2-15-147. Audits - Expenses.

A. The account and books of the Trust Authority, including its receipts, disbursements, contracts, mortgages, investments and other matters relating to its finances, operations and affairs shall be examined and audited not less than once each twelve (12) months by a certified public accountant or licensed public accountant.

B. The trustees of the Trust Authority may employ a certified public accountant or licensed public accountant for the audit and examination and pay a reasonable fee therefor from trust funds.

C. The records, books and accounts may be examined from time to time at the discretion of and by the State Auditor and Inspector as provided by law. When an audit is made as provided in this subsection, by the State Auditor and Inspector, all expenses of the audit must be reimbursed by the Trust Authority to the State Auditor and Inspector.

Added by Laws 1970, c. 335, § 7, emerg. eff. April 23, 1970. Amended by Laws 1973, c. 68, § 1, emerg. eff. April 27, 1973; Laws 1979, c. 30, § 58, emerg. eff. April 6, 1979; Laws 2001, c. 146, § 241, emerg. eff. April 30, 2001. Renumbered from § 157.7 of this title by Laws 2001, c. 146, § 271, emerg. eff. April 30, 2001.

§2-15-161. Companies and operators to file bond to secure contract - Term and conditions.

A. All carnival companies or the operators of public shows that enter into any contract with any county agricultural society or county fair shall be required, within thirty (30) days after the execution of such contract, to:

1. Execute and file with the Secretary of State a good and sufficient bond, with corporate surety doing business in the State of Oklahoma, in the sum of Two Thousand Five Hundred Dollars (\$2,500.00) running to the State of Oklahoma. The bond shall be conditioned that any such carnival company or the operator of the show will faithfully perform any contract entered into by the carnival or operator in the State of Oklahoma during a period of one (1) year from the date of execution of such contract; and

2. At the time of the filing of the bond, file with the Secretary of State an appointment of some person within the State of Oklahoma authorized to receive service of process on behalf of the principal on the bond.

B. The bond shall be made for a period of one (1) year and no additional bonds shall be required for that period.

C. Upon entering into any contract with county fair or county agricultural society, calling for a performance in any specific county in the State of Oklahoma, the carnival company or the operator of the show shall, within thirty (30) days after signing of each such contract, file with the county clerk of such county a certificate showing that the bond provided for in this section has been filed with the Secretary of State.

Added by Laws 1953, p. 1, § 1. Amended by Laws 2001, c. 146, § 242, emerg. eff. April 30, 2001. Renumbered from § 161 of this title by Laws 2001, c. 146, § 272, emerg. eff. April 30, 2001.

§2-15-162. Contracts secured by bond - Approval of form - Suit on bond.

A. The bond required by Section 15-161 of this title shall be security, not only for the performance of the initial contract signed by any such carnival company or the operator of any such show, but it also shall insure performers of all other contracts made in this state with any agricultural society or county fair during the period such bond is in force.

B. The bond shall be in form approved by the Attorney General of Oklahoma.

C. Any county agricultural society or county fair may bring suit upon such bond in the county where such contract was to have been performed to recover any damages sustained by reason of breach of contract or failure to carry out the terms thereof.

Added by Laws 1953, p. 2, § 2. Amended by Laws 2001, c. 146, § 243, emerg. eff. April 30, 2001. Renumbered from § 162 of this title by Laws 2001, c. 146, § 272, emerg. eff. April 30, 2001.

§2-15-163. Violations - Punishment.

Each officer, owner, or manager of any carnival company or show, who willfully fails to cause bond and certificate to be filed as provided by Section 15-161 of this title, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in the sum of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00).

Added by Laws 1953, p. 2, § 3. Amended by Laws 2001, c. 146, § 244, emerg. eff. April 30, 2001. Renumbered from § 163 of this title by Laws 2001, c. 146, § 272, emerg. eff. April 30, 2001.

§2-16-1. Short title.

A. Article 16 of Title 2 of the Oklahoma Statutes shall be known and cited as the Oklahoma Forestry Code.

B. All statutes enacted and codified in Article 16 of Title 2 of the Oklahoma Statutes shall be considered part of the Oklahoma Forestry Code.

Added by Laws 1971, c. 349, § 101, emerg. eff. June 24, 1971.

Amended by Laws 1995, c. 238, § 1, eff. Nov. 1, 1995; Laws 2001, c. 113, § 3, emerg. eff. April 18, 2001. Renumbered from § 1301-101 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-2. Definitions.

As used in the Oklahoma Forestry Code:

1. "Director" means the Director of Forestry of the Oklahoma Department of Agriculture, Food, and Forestry;

2. "Division" means the Forestry Division of the Oklahoma Department of Agriculture, Food, and Forestry;

3. "Established property line" means any boundary line which has been:

- a. recognized by adjoining land owners as a boundary and uncontested for at least fifteen (15) years including, but not limited to, fence lines, roads, and natural features,
- b. established by a registered land surveyor, or
- c. uncontested for at least fifteen (15) years;

4. "Forest rangers" means all employees of the Forestry Division who have responsibilities in forest protection, including laborers, mechanics, and other employees who assist in forest protection;

5. "Forest" means a tract of land that is at least ten percent (10%) stocked by trees of any size, whether of commercial or noncommercial species, or formerly having tree cover and not currently developed for nonforest use, including woodlands, woodlots, windbreaks, and shelterbelts;

6. "Logging or timber harvesting operations" means the cutting or harvesting of and removal of timber from a site, leaving the root mass intact;

7. "Owner" means the possessor of a fee interest, a tenant, lessee, occupant, or other person in lawful control of land;

8. "Prescribed burning" means the controlled application by the owner of croplands, rangelands, or forestlands of fire to naturally occurring vegetative fuel under specified environmental conditions and following appropriate precautionary measures, which causes the fire to be confined to a predetermined area and accomplish land management objectives;

9. "Timber" means live and dead trees and the profit in any live and dead trees including, but not limited to, bark, foliage, wood, vines, firewood, crossties, and shrubbery;

10. "Timber owner" means any person who owns the right to cut or harvest timber at the time the timber is to be cut or harvested, or who legally owns the severed timber;

11. "Wildfires" means any fire which is not controlled on forests, grasslands, fields, or croplands; and

12. "Wild lands" means any undeveloped lands regardless of kind of vegetative plant cover including forests, prairies, marshes, and swamps.

Added by Laws 1971, c. 349, § 102, emerg. eff. June 24, 1971.

Amended by Laws 1995, c. 238, § 2, eff. Nov. 1, 1995. Renumbered from Title 2, § 1301-102 by Laws 2001, c. 113, § 56, emerg. eff.

April 18, 2001. Amended by Laws 2001, c. 208, § 2, emerg. eff. May 14, 2001; Laws 2001, c. 440, § 2, eff. July 1, 2001; Laws 2007, c. 195, § 1, emerg. eff. May 31, 2007.

NOTE: Laws 2001, c. 113, § 4 repealed by Laws 2001, c. 440, § 6, eff. July 1, 2001.

§2-16-3. Forestry program - Responsibilities.

The State Board of Agriculture shall institute a broad program of education and action in the protection, reforestation, harvesting, and wise use of forests and their products throughout Oklahoma under the provisions the Board shall adopt. These provisions shall include the need for trees and forests to meet the increasing demands for forest products for human consumption, the necessity of environmental improvement to filter out noise and dirt, clean and replenish the atmosphere, to conserve soil, water and wildlife, and to provide outdoor recreation for healthful living. The Board shall administer silviculture best management practices in cooperation with forestry land users under the provisions of state and federal water pollution laws that include the process to identify silviculturally related nonpoint sources of pollution as defined by the Oklahoma Environmental Quality Code and, to the extent feasible, establish procedures and methods to control these sources.

Added by Laws 1971, c. 349, § 103, emerg. eff. June 24, 1971.

Amended by Laws 1981, c. 174, § 1; Laws 1993, c. 145, § 351, eff.

July 1, 1993; Laws 2001, c. 113, § 5, emerg. eff. April 18, 2001.

Renumbered from § 1301-103 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-4. Duties of Board.

It shall be the duty of the State Board of Agriculture under terms the Board determines shall best serve the public interest to assist and cooperate with federal and state departments, educational institutions, counties, towns, corporations, or individuals; to gather and disseminate information about forests, their care and management; to prevent and extinguish wildfires; to enforce all laws pertaining to forests and woodlands; and to monitor the health, inventory, and condition of the state's forest resources.

Added by Laws 1971, c. 349, § 104, emerg. eff. June 24, 1971.

Amended by Laws 2001, c. 113, § 6, emerg. eff. April 18, 2001.

Renumbered from § 1301-104 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001. Amended by Laws 2006, c. 209, § 1, eff. Nov. 1, 2006; Laws 2007, c. 195, § 2, emerg. eff. May 31, 2007.

§2-16-5. Forestry Division - Other enforcement agencies.

The laws of this state relating to forestry activities shall be implemented, enforced, and carried out by the State Board of Agriculture through a division of the State Department of Agriculture to be known as the Forestry Division. Other law enforcement agencies of the state shall assist in the prevention, suppression, and investigation of fires, and the enforcement of the Oklahoma Forestry Code.

Added by Laws 1971, c. 349, § 105, emerg. eff. June 24, 1971.

Amended by Laws 2001, c. 113, § 7, emerg. eff. April 18, 2001.

Renumbered from § 1301-105 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-6. Interfering with, molesting or assaulting firefighters - Penalty.

Any person or persons acting in concert who knowingly and willfully interfere with, molest, or assault forest rangers or firefighters in the performance of their duties, or who knowingly and willfully obstruct, interfere with, or impede the progress of forest rangers or firefighters to reach the destination of a fire, or who damage or destroy any vehicles or equipment used to reach or extinguish a fire shall be guilty of a felony.

Added by Laws 1998, c. 300, § 1, eff. Nov. 1, 1998. Amended by Laws 2001, c. 113, § 8, emerg. eff. April 18, 2001. Renumbered from § 1301-105.1 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-7. Director of Forestry - Qualifications - Employment of personnel.

The administrative head of the Forestry Division shall be the Director of Forestry, who shall be a professional forester and be qualified as required by the State Board of Agriculture. Other professional, technical, and practical personnel necessary to discharge the responsibilities of the Forestry Division shall be employed by the Director of Forestry, subject to the approval of the Board.

Added by Laws 1971, c. 349, § 106, emerg. eff. June 24, 1971. Amended by Laws 2001, c. 113, § 9, emerg. eff. April 18, 2001. Renumbered from § 1301-106 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-8. Forestry Division - Appointment of forestry employees - Powers and duties - Entry upon lands - Arrests, etc.

A. The Forestry Division of the Oklahoma Department of Agriculture, Food, and Forestry, in connection with the enforcement of the Oklahoma Forestry Code, shall have the following powers, authority, and duties:

1. To enforce the provisions of this code and other forest and forest protection laws of this state;

2. To prevent, detect, extinguish and investigate wildfires in this state;

3. To provide wildfire fighting crews, who shall be under the control and direction of forest rangers and other designated agents of the Division;

4. To appoint district foresters, assistant district foresters, investigators, rangers and other employees;

5. To use the resources of the Division on state-owned parks and other state-administered land to prevent and suppress fires and to establish fire fighting crews who shall be authorized to suppress fires on state land;

6. To be reimbursed on an actual cost basis for all services provided to state parks and other land administered by the State of Oklahoma;

7. To investigate cases of forest timber theft;

8. To make available for sale surplus state vehicles directly to rural fire departments or municipal fire departments, in cities or towns under ten thousand (10,000) population. State vehicles may be offered for sale only after approval is given in writing by the Office of Management and Enterprise Services and an evaluation is made of each vehicle and a price set by the Office of Management and Enterprise Services. The Forestry Division may only receive the amount authorized by the Office of Management and Enterprise Services for the sale of the vehicle;

9. To purchase equipment from the Rural Fire Defense Equipment Revolving Fund's inventory, when advantageous to the state, and to reimburse the Revolving Fund; and

10. To plan and conduct prescribed burning at the request and expense of landowners on public or private land for the purpose of controlling Eastern Redcedar and other invasive species, for hazardous fuel reduction, wildlife habitat manipulation, ecosystem restoration, or achieving silvicultural objectives. Forestry Division employees shall be protected under The Governmental Tort Claims Act and shall not be personally liable beyond the limits established therein for activities pursuant to this paragraph unless gross negligence is established in a competent court of law.

B. Forest rangers, and the fire fighting crews under their control and direction, may enter upon any land for the purpose of preventing and suppressing wildfires and to enforce the provisions of the Oklahoma Forestry Code and other wildfire and forest protection laws of this state.

C. Forest rangers, employees of the Division, and all persons under contract or agreement with the Division to assist in fire fighting operations, as well as persons called upon by forest rangers or other authorized employees of the Division to assist in fire fighting under the direction or supervision of employees of the Division, may, in the performance of their duties, set backfires, dig trenches, cut firelines, and carry on all customary activities in the fighting of wildfires without incurring liability to any person.

D. Under the direction of forest rangers and upon written receipt of permission of the landowner, county officers and employees may, in the performance of their duties and without incurring liability to any person, cut firelines and carry out all customary

activities for conducting prescribed burns to mitigate hazardous wildland fuels for the prevention of wildfires on private lands.

1. The Director of the Forestry Division may appoint, subject to the approval of the State Board of Agriculture, special officers who shall have the power and authority to arrest. The special officers shall have power and authority throughout the state, under the direction and control of the Division, to enforce the criminal provisions contained in the Oklahoma Forestry Code, other laws relating to forests and wildfires and the Oklahoma Agricultural Code.

2. The special officers shall have power and authority to make arrests with or without warrants for violations of the criminal provisions of the Oklahoma Forestry Code, other laws relating to forests and wildfires and the Oklahoma Agricultural Code to the same extent and under the same limitations and duties as peace officers under the provisions of Title 22, Chapter 3 of the Oklahoma Statutes.

3. In connection with the enforcement of the criminal provisions, the special officers and other state investigators or law enforcement officers may go upon all premises when necessary for the enforcement of laws. All special officers shall be ex officio forest rangers and shall be under the control and direction of the Division; except, the Director may at any time, for cause, remove any powers and authority of arrest conferred. Special officers shall have the same right and authority to carry arms as the sheriffs of this state. The compensation of special officers shall be fixed and paid by the Division from its funds.

Added by Laws 1971, c. 349, § 107, emerg. eff. June 24, 1971.

Amended by Laws 1981, c. 174, § 2; Laws 1993, c. 139, § 1, eff. Sept. 1, 1993; Laws 1994, c. 272, § 1, operative July 1, 1994; Laws 2001, c. 113, § 10, emerg. eff. April 18, 2001. Renumbered from § 1301-107 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001. Amended by Laws 2007, c. 195, § 3, emerg. eff. May 31, 2007; Laws 2011, c. 84, § 1, eff. Nov. 1, 2011; Laws 2012, c. 304, § 11; Laws 2019, c. 358, § 1, eff. Nov. 1, 2019.

§2-16-9. Payroll deductions for residence maintenance expenses.

The State Board of Agriculture is authorized to make payroll deductions for maintenance from Forestry Division employees living in residences located on land owned or leased by the Board. Within the next month following payroll deductions, the Board shall deposit these funds in the State Department of Agriculture Revolving Fund created by Section 2-10 of Title 2 of the Oklahoma Statutes. The expenditure of these funds for maintenance shall be limited to repairs, upkeep, and other expenses associated with the residences owned or leased by the Board.

Added by Laws 1984, c. 296, § 62, operative July 1, 1984. Amended by Laws 2001, c. 113, § 11, emerg. eff. April 18, 2001. Renumbered from

§ 1301-108 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-10. Authorization of forestry cost-share program.

The State Board of Agriculture is authorized to establish and administer a forestry cost-share program. The forestry cost-share program shall provide monies to private landowners for the purpose of implementing forest conservation or management practices on the land as described in forest management plans approved by the Commissioner of the State Department of Agriculture or meeting certain standards established by the Commissioner. The Board shall promulgate rules governing the cost-share program.

Added by Laws 1996, c. 19, § 1, eff. Nov. 1, 1996. Amended by Laws 2001, c. 113, § 12, emerg. eff. April 18, 2001. Renumbered from § 1301-109 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-11. Forestry Cost-Share Fund.

A. There is created within the State Treasury a cost-share fund for the State Board of Agriculture to be designated the "Forestry Cost-Share Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Board to implement and maintain the forestry cost-share program.

B. The Forestry Cost-Share Fund shall consist of:

1. Money received by the Oklahoma Department of Agriculture, Food, and Forestry in the form of gifts, grants, reimbursements, donations, forest industry contributions, funds allocated by federal agencies for landowner forestry cost-share programs, and other monies specifically designated for the forestry cost-share program. All monies accruing to the credit of the fund are appropriated and may be budgeted and expended by the Board for the forestry cost-share program; and

2. Interest attributable to investment of money in the Forestry Cost-Share Fund.

C. All donations or other proceeds received by the Department pursuant to the provisions of this section shall be deposited with the State Treasurer to be credited to the Forestry Cost-Share Fund. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. The monies deposited in the Forestry Cost-Share Fund shall at no time become part of the general budget of the Department or any other state agency. Except for any administration costs incurred in development and implementation of the forestry cost-share program, no monies from the Fund shall be transferred for any purpose to any

other state agency or any account of the Board or Department or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

Added by Laws 1996, c. 19, § 2, eff. Nov. 1, 1996. Amended by Laws 2001, c. 113, § 13, emerg. eff. April 18, 2001. Renumbered from § 1301-110 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001. Amended by Laws 2012, c. 304, § 12.

§2-16-12. Application for and allocation of cost-share funds.

A. The State Department of Agriculture may require eligible applicants to submit information, forms, and reports necessary to properly and efficiently administer the forestry cost-share program.

B. Persons may apply to the Commissioner of the State Department of Agriculture for cost-share funds to improve forest lands in the State of Oklahoma, in accordance with rules promulgated by the State Board of Agriculture. To be eligible, landowners shall follow a written forest management plan that has been prepared by a professional forester and approved by the Commissioner or that meets standards established by the Commissioner. Applications for funds shall be approved or denied by the Department in accordance with criteria promulgated by the Board.

C. The Commissioner shall allocate monies from the Fund to eligible landowners on a matching basis.

Added by Laws 1996, c. 19, § 3, eff. Nov. 1, 1996. Amended by Laws 2001, c. 113, § 14, emerg. eff. April 18, 2001. Renumbered from § 1301-111 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-13. Repealed by Laws 2013, c. 118, § 25, eff. Nov. 1, 2013.

§2-16-21. Organization of protection areas.

The Division shall organize forest protection areas to prevent, detect, and suppress wildfires most effectively, and may employ forest rangers to have charge of its activities in each area; may subdivide each area into patrol areas; may construct lookout towers, roads, bridges, firelines, office facilities, and communication facilities; may purchase tools for firefighting as well as other necessary supplies and equipment; and may carry on all activities necessary to protect the area effectively from fires.

Added by Laws 1971, c. 349, § 201, emerg. eff. June 24, 1971.

Amended by Laws 2001, c. 113, § 16, emerg. eff. April 18, 2001.

Renumbered from § 1301-201 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-22. Road crews to extinguish fires.

Every member of a road construction or maintenance crew, whether employed by the State Highway Department or county commissioners of

any county, and every road contractor or subcontractor of the Highway Department or county commissioners and their employees shall keep all fires under control and confined to the right-of-way of any state, county or public road, or highway on and adjacent to which the crew, contractor, subcontractor, and employees are employed.

Added by Laws 1971, c. 349, § 202, emerg. eff. June 24, 1971.

Amended by Laws 2001, c. 113, § 17, emerg. eff. April 18, 2001.

Renumbered from § 1301-202 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-23. Adoption of rules for road crews.

The State Department of Highways and the county commissioners of the several counties of this state shall require their construction and maintenance crews, contractors, subcontractors, and employees to comply with the provisions of the Oklahoma Forestry Code, and the highway department or county commissioners may adopt and promulgate rules for the observance of the crews, contractors, subcontractors, and employees in carrying out the purposes and provisions of the Oklahoma Forestry Code.

Added by Laws 1971, c. 349, § 203, emerg. eff. June 24, 1971.

Amended by Laws 2001, c. 113, § 18, emerg. eff. April 18, 2001.

Renumbered from § 1301-203 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-24. Refusal of road crews.

Any road foreman or member of a road construction or maintenance crew, or any foreman, superintendent, or employee of any road contractor or subcontractor, who shall, without sufficient cause, willfully refuse or neglect to prevent and suppress fires as provided in the Oklahoma Forestry Code shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), by imprisonment for not more than one (1) year, or by both.

Added by Laws 1971, c. 349, § 204, emerg. eff. June 24, 1971.

Amended by Laws 2001, c. 113, § 19, emerg. eff. April 18, 2001.

Renumbered from § 1301-204 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-24.1. Lawful burning.

A. It shall be lawful for an owner of croplands, rangelands, grasslands, forestlands, or other wild lands to set the croplands, rangelands, grasslands, forestlands, or other wild lands on fire for the purposes of:

1. Managing and manipulating plant species present whether grass, weeds, brush, or trees; and

2. Destroying detrimental or unwanted plants, plant parts, shrubs or trees on the croplands, rangelands, grasslands, forestlands, or other wild lands; and

3. Cedar tree eradication.

B. The provisions of this section shall not be construed to exempt or release a person from civil liability for damages or injury incurred as a result of the burn or for criminal liability as imposed pursuant to the Oklahoma Forestry Code.

Added by Laws 2001, c. 208, § 3, emerg. eff. May 14, 2001. Amended by Laws 2006, c. 268, § 1, eff. Nov. 1, 2006; Laws 2007, c. 195, § 4, emerg. eff. May 31, 2007.

§2-16-25. Unlawful burning.

A. It is unlawful for any person to carelessly or willfully burn or cause to be burned or to set fire to or cause any fire to be set to any forest, grass, crops, rangeland, or other wild lands not owned by, duly authorized by the owner or manager, or in the lawful possession of, the person setting the fire or burning the lands or causing the fire to be burned.

B. Any person who carelessly violates this section is guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00), by imprisonment for not more than one (1) year, or both. Any person who willfully violates this section is guilty of a felony punishable by a fine of not more than Five Thousand Dollars (\$5,000.00), by imprisonment for not more than three (3) years, or by both.

C. Any person who carelessly or willfully burns, causes to be burned, sets fire, or causes fire to be set, any forest, grass, croplands, or woodlands not owned by, duly authorized by the owner or manager, or in lawful possession of, shall be liable in a civil action to any person injured or damaged by a fire to the amount of the injury or damages.

Added by Laws 1971, c. 349, § 205, emerg. eff. June 24, 1971.

Amended by Laws 1997, c. 133, § 98, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 34, eff. July 1, 1999; Laws 2001, c. 113, § 20, emerg. eff. April 18, 2001. Renumbered from § 1301-205 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001. Amended by Laws 2007, c. 195, § 5, emerg. eff. May 31, 2007.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 98 from July 1, 1998, to July 1, 1999.

§2-16-26. Emergency drought conditions - Extreme fire danger - Burning prohibitions - Penalties - Fireworks.

A. 1. It is unlawful for any person to set fire to any forest, grass, range, crop, or other wildlands, or to build a campfire or bonfire, or to burn trash or other material that may cause a forest, grass, range, crop or other wildlands fire in any county, counties or

area within a county where, because of emergency drought conditions, there is gubernatorially proclaimed extraordinary danger from fire, unless the setting of any backfire during the drought emergency is necessary to afford protection as determined by a representative of the Division of Forestry, or unless it can be established that the setting of the backfire was necessary for the purpose of saving life or property. The burden of proving the necessity shall rest on the person claiming a defense.

2. The Division of Forestry shall advise the Governor when the lands described in paragraph 1 of this subsection in any county, counties or area within a county of this state because of emergency drought conditions are in extraordinary danger from fire. The Governor may by proclamation declare a drought emergency to exist and describe the general boundaries of the area affected.

3. Any proclamation promulgated by the Governor under authority of this subsection shall be effective immediately upon the Governor's signed approval of the emergency proclamation and shall supersede any resolution passed by a board of county commissioners pursuant to subsection B of this section. Notice of the proclamation shall occur through posting on the Oklahoma Department of Agriculture, Food, and Forestry's website and informing local news media. Evidence of publication or posting as herein provided shall be maintained by the Forestry Division.

4. When conditions warrant, due notice of the termination of the emergency shall be promptly made by proclamation, which shall be published or posted in like manner as when officially declared.

5. Any person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than One Thousand Dollars (\$1,000.00), by imprisonment for not more than one (1) year, or both.

B. 1. It is unlawful for any person to set fire to any forest, grass, range, crop or other wildlands, or to build a campfire or bonfire, or to burn trash or other material that may cause a forest, grass, range, crop or other wildlands fire in any county of this state in which the board of county commissioners of the county has passed a resolution declaring a period of extreme fire danger. As used in this subsection, "extreme fire danger" means:

- a. all three of the following conditions are present:
 - (1) severe, extreme, or exceptional drought conditions exist as determined by the National Oceanic and Atmospheric Administration (NOAA) pursuant to its criteria,
 - (2) no more than one-half (1/2) inch of precipitation is forecast for the next three (3) days, and
 - (3) either of the following:
 - (a) fire occurrence is significantly greater than normal for the season and/or initial attack

on a significant number of wildland fires has been unsuccessful due to extreme fire behavior, or

(b) where data is available, more than twenty percent (20%) of the wildfires in the county have been caused by escaped debris or controlled burning, or

b. temperatures for any day over the next three (3) days are forecasted at or over one hundred (100) degrees Fahrenheit.

2. A majority of the board of county commissioners may call an emergency meeting at any time to pass or revoke a resolution declaring a period of extreme fire danger in accordance with this section.

3. A board of county commissioners shall have the documented concurrence of a majority of the chiefs, or their designees, of the municipal and certified rural fire departments located in the county that a period of extreme fire danger exists prior to passage of a resolution declaring a period of extreme fire danger in the county. The resolution shall be effective for a period not to exceed fourteen (14) days from the date of passage by the board of county commissioners, unless the burn ban is removed earlier by the same method by which it was approved. If extreme fire danger conditions persist, subsequent resolutions may be passed by the board of county commissioners in the same manner as provided in this paragraph. The board of county commissioners, in the resolution, may grant exceptions to the fire prohibition based on appropriate precautionary measures.

4. Agricultural producers burning cropland, rangeland, forests or pastures as a preferred method of managing their property shall be exempt from any resolution passed by a board of county commissioners that declares a period of extreme fire danger so long as the agricultural producers have complied with the following procedures:

a. submit a written prescribed burn plan to the local fire department and, if within a protection area, the local office or local representative of the Forestry Division of the Oklahoma Department of Agriculture, Food, and Forestry nearest the land to be burned that shall include the following information:

- (1) the name and telephone number of the agricultural producer conducting the burn,
- (2) the address and legal description of the area to be burned,
- (3) the objective and purpose of the burn,
- (4) a list of fire departments and sheriff's offices that are required to be notified pursuant to subparagraph c of this paragraph,

- (5) a list of adjoining landowners required to be notified pursuant to Section 16-28.2 of this title,
 - (6) a description of any firebreaks used to define the boundary of the prescribed burn,
 - (7) a statement of prescribed weather conditions,
 - (8) a description of any smoke-management considerations, and
 - (9) an ignition plan for the burn,
- b. keep a copy of the written prescribed burn plan provided for in subparagraph a of this paragraph on site when conducting the prescribed burn,
 - c. notify the county sheriff and the dispatch center of the local fire department prior to conducting the prescribed burn, and
 - d. comply with the notification procedures outlined in Section 16-28.2 of this title.

5. The prescribed burn plan provided for in paragraph 4 of this subsection shall be deemed approved seventy-two (72) hours after submission to the local fire department; provided, that the local fire department may amend the submitted burn plan within seventy-two (72) hours after submission.

6. The prescribed burn plan provided for in paragraph 4 of this subsection shall not include campfires, household trash, debris or pile burning.

7. Nothing in paragraph 4 of this subsection shall supersede requirements set by a proclamation promulgated by the Governor under authority of this section, interfere with the authority of the Oklahoma Department of Agriculture, Food, and Forestry to enforce burning laws or change the burner's liability as prescribed by law.

8. Any resolution passed by a board of county commissioners under authority of this subsection shall be effective immediately upon passage of the resolution. Notice of the resolution shall be submitted to the Forestry Division of the Oklahoma Department of Agriculture, Food, and Forestry, all local news media, local law enforcement officials, and the state headquarters of the Department of Public Safety, the Oklahoma Tourism and Recreation Department and the Department of Wildlife Conservation on the day of passage of the resolution. Evidence of publication or posting as provided in this paragraph shall be maintained by the county.

9. The provisions of this subsection may be enforced by any law enforcement officer of this state.

10. Any person convicted of violating the provisions of this subsection shall be guilty of a misdemeanor and shall be subject to a fine of not more than Five Hundred Dollars (\$500.00), to imprisonment for not more than one (1) year, or to both such fine and imprisonment.

11. The selling of fireworks shall not be considered an act in violation of this subsection.

Added by Laws 1971, c. 349, § 206, emerg. eff. June 24, 1971.

Amended by Laws 2001, c. 113, § 21, emerg. eff. April 18, 2001.

Renumbered from § 1301-206 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001. Amended by Laws 2006, c. 209, § 2, eff. Nov. 1, 2006; Laws 2007, c. 195, § 6, emerg. eff. May 31, 2007; Laws 2008, c. 316, § 1, emerg. eff. June 2, 2008; Laws 2010, c. 86, § 1, emerg. eff. April 12, 2010; Laws 2013, c. 299, § 1, eff. Nov. 1, 2013; Laws 2015, c. 256, § 1, eff. Nov. 1, 2015; Laws 2016, c. 351, § 1, eff. Nov. 1, 2016; Laws 2019, c. 271, § 1, eff. Nov. 1, 2019.

§2-16-27. Camp fires.

It is unlawful for any person to willfully, negligently, or carelessly build a warming or camp fire and leave the fire unextinguished or allow the fire to spread. Any person who violates this section is guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00), by imprisonment for not more than one (1) year, or both.

Added by Laws 1971, c. 349, § 207, emerg. eff. June 24, 1971.

Amended by Laws 2001, c. 113, § 22, emerg. eff. April 18, 2001.

Renumbered from § 1301-207 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-28. Repealed by Laws 2007, c. 195, § 10, emerg. eff. May 31, 2007.

§2-16-28.1. Procedures to lawfully burn land - Civil and criminal liability.

A. It is unlawful for any person either willfully or carelessly to burn, cause to be burned, to set fire to, or cause fire to be set to any forest, grass, croplands, rangeland, or other wild lands, by an owner of such property, except under the following circumstances:

1. In protection areas, notification to burn shall be made by the owner to the local office or local representative of the Forestry Division at least four (4) hours in advance and verbal or written approval obtained. In addition to the notification requirements of this paragraph, any owner conducting a limited liability burn in a protected area shall comply with the provisions of Section 16-28.2 of Title 2 of the Oklahoma Statutes; or

2. Outside protection areas, in order for prescribed or controlled burning to be lawful, an owner shall take reasonable precaution against the spreading of fire to other lands by providing adequate firelines, manpower, and fire fighting equipment for the control of the fire, shall watch over the fire until it is extinguished and shall not permit fire to escape to adjoining land.

B. Nothing in this section shall relieve the person from the obligation to confine the fire to the owner's, agent's, or tenant's land.

C. The Oklahoma Forestry Code shall not apply to trimming or cutting of trees by public or private utilities for the purpose of eliminating interference with utility lines, poles, or other utility equipment.

D. 1. Except as otherwise provided by Section 16-28.2 of this title, any person:

- a. who, whether by accident, neglect or intent, causes or allows damage or injury to occur to any ranch, buildings, improvements, hay, grass, crops, fencings, timber, marsh, or other property of another person by any fire described and conducted pursuant to this section, shall be civilly responsible for such damage or injury so caused pursuant to Section 16-30 of Title 2 of the Oklahoma Statutes, and
- b. who carelessly violates this section is guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00), by imprisonment for not more than one (1) year, or both.

2. In addition to civil liability, any person who willfully violates this section is guilty of a felony punishable by a fine of not more than One Thousand Dollars (\$1,000.00), by imprisonment for not more than three (3) years, or by both.

E. Fire set under the provisions of this section shall not be allowed to spread beyond the control of the person setting the fire and shall be subdued and extinguished.

Added by Laws 2007, c. 195, § 7, emerg. eff. May 31, 2007.

§2-16-28.2. Prescribed burns.

A. 1. The provisions of this section apply to a prescribed burn.

2. Any owner wishing to set fire to land in order to conduct a prescribed burn shall comply with the provisions of this section.

B. 1. Within sixty (60) days prior to conducting a prescribed burn, the owner of land to be burned shall orally or in writing notify all landowners whose lands adjoin the owner's land to be burned.

2. If any landowner is burning on a large, consolidated tract of land in which there are multiple adjacent owners, only those owners with adjoining land within one (1) mile of the proposed burn area must be notified.

3. The owner shall include in the written notice or shall orally notify the adjoining landowners of the proposed date and location of the burn and a telephone number where the owner can be reached for information regarding the prescribed burn.

C. In addition to notification of adjoining property owners pursuant to subsection B of this section, the owner of the land to be burned shall complete the prescribed burn notification plan specified in subsection D of this section and shall submit such plan to the rural fire department nearest the land to be burned. If the land to be burned is in a protection area, the owner shall also submit a copy of the notification plan to the local office or local representative of the Forestry Division nearest to the land to be burned.

D. Any person wishing to conduct a prescribed burn shall complete this form, distributed by the Oklahoma Department of Agriculture, Food, and Forestry, which shall be in substantially the following form:

PRESCRIBED BURN NOTIFICATION PLAN

Name _____ Phone _____

Address _____ County _____

City, State, Zip _____

Ranch name, if any _____

Area to be burned _____

Approximate acres to be burned _____

Written distance description of location _____

Projected time frame _____

Date of previous burn _____

Objectives to be accomplished through the prescribed burn:

Contact information:

Rural Fire Department:

Name: _____ Location: _____ Phone No.: _____

Forestry District Office (for protection areas) _____

Adjoining landowners:

The original copy of the form must be filed with the rural fire department nearest to the land to be burned. If conducting a prescribed burn within a protection area, a copy of the prescribed burn notification plan must be filed with the local office or local representative of the Forestry Division nearest to the land to be

burned. A copy of the plan shall be retained by the owner of the land to be burned.

E. 1. Whether the land is located within or outside a protection area, the owner of land to be burned shall, within forty-eight (48) hours of conducting a prescribed burn, notify the rural fire department receiving a copy of the prescribed burn notification plan that the prescribed burn will be conducted.

2. Within a protection area, the owner of land to be burned shall also, within the time period required by Section 7 of this act, notify the local office or local representative of the Forestry Division receiving a copy of the prescribed burn notification plan.

F. A prescribed burn conducted pursuant to provisions of this section shall:

1. Be considered in the public interest and shall not constitute a public or private nuisance; and

2. Be considered a property right of the property owner if vegetative fuels are used.

G. 1. Any owner conducting a prescribed burn who is found by a court of law to have caused damages or injury as a result of accident or by ordinary negligence shall only be civilly liable for actual damages resulting from the prescribed burn.

2. Any owner conducting a prescribed burn who is found by a court of law to have committed gross negligence in conducting the prescribed burn may be found to be both civilly liable for the amount of damage done by the fire, and criminally liable pursuant to paragraph 3 of this subsection.

3. Any owner setting or causing to be set on fire land as authorized by this section, and as a result of gross negligence permitting the fire to spread beyond the control of the owner or beyond the bounds of the owner's land, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined a sum not more than Five Hundred Dollars (\$500.00), or imprisonment in the county jail for a period not more than six (6) months.

Added by Laws 2001, c. 208, § 5, emerg. eff. May 14, 2001. Amended by Laws 2003, c. 410, § 2; Laws 2007, c. 195, § 8, emerg. eff. May 31, 2007.

§2-16-28.3. Oklahoma Controlled Burn Indemnity Fund.

A. There is hereby created within the Oklahoma Conservation Commission, the "Oklahoma Controlled Burn Indemnity Fund".

B. The Oklahoma Conservation Commission shall administer the Oklahoma Controlled Burn Indemnity Fund. The Indemnity Fund shall be established for the benefit of landowners who perform controlled burns. The Indemnity Fund shall compensate landowners for losses incurred from a fire that spreads beyond the control of the burner, except for losses covered by insurance.

C. In order to participate in the Indemnity Fund, the landowner shall:

1. Work with the local conservation district office and the Natural Resources Conservation Service of the United States Department of Agriculture to develop a controlled burn plan based on the United States Department of Agriculture Natural Resources Conservation Service guidelines; and

2. At the time of filing the completed plan, provide payment of One Hundred Dollars (\$100.00) to the Conservation Commission.

D. The Conservation Commission shall have authority to invest the assessments. All proceeds of the investment shall be placed in the Indemnity Fund. Fifty Thousand Dollars (\$50,000.00) from the interest income for each year on the total proceeds in the Indemnity Fund shall be paid to the Conservation Commission annually for the development of controlled burn plans and for administration of the Indemnity Fund. The balance of the accrued interest each year shall remain a part of the Indemnity Fund.

E. When a loss is incurred, the landowner shall present a claim to the Conservation Commission. To verify the claim, the landowner shall present any evidence required by the Conservation Commission including, but not limited to, evidence that the landowner strictly adhered to the plan provided for in subsection C of this section. All landowner claim payments shall be made by the Conservation Commission from the Indemnity Fund as soon as practicable and not later than one (1) year following the date of claim. The price per acre of land shall be established on the day of the loss and shall be for the full market value on that day.

F. If there is an insufficient amount of funds in the Indemnity Fund to cover all claims for a certain year, payments shall be made on a pro rata basis up to one hundred percent (100%) of the total loss of each landowner. If payment is not received in the amount of one hundred percent (100%) of total loss for a certain year, then additional amounts shall be paid as funds become available in succeeding years until repayment of one hundred percent (100%) of total loss is attained. If, at any time, a landowner receives payment totaling more than one hundred percent (100%) of total loss, the excess payment shall be returned to the Indemnity Fund within thirty (30) days. Upon final payment of a claim to a landowner from the Indemnity Fund, the landowner shall subrogate the interest to the Conservation Commission in a cause of action against any and all parties, to the amount of loss that the producer was reimbursed by the Indemnity Fund.

G. The landowner shall, within sixty (60) days of the date of loss, present the claim to the Conservation Commission. Landowners may submit a written request to the Conservation Commission for a sixty-day extension of the filing period, if the landowner can show that the landowner was not provided notification and reasonable time

to file a claim. If the claim of loss is not presented within the time and in the manner required, the claim shall be forever barred and the landowner shall forfeit all rights to remuneration or payment.

H. If state funds are appropriated to the Indemnity Fund, the Conservation Commission shall establish the rules and procedures necessary to ensure that the General Revenue Fund shall be reimbursed from the assessments in an amount equal to the total appropriation made to the Indemnity Fund. The reimbursement shall be made in a timely manner, provided the intents and purposes of this section to compensate landowners for losses incurred shall not be adversely affected.

I. The monies deposited in the Indemnity Fund shall at no time become part of the general budget of any state board, commission, or agency, except the Conservation Commission.

J. The Executive Director of the Conservation Commission shall investigate all potential civil action claims against persons for recovery of any losses paid by the Indemnity Fund.

K. No provision of this section shall preclude any landowner from conducting a lawful burn without participating in the Oklahoma Controlled Burn Indemnity Fund.

Added by Laws 2007, c. 175, § 1, eff. Nov. 1, 2007.

§2-16-29. Repealed by Laws 2001, c. 208, § 6, emerg. eff. May 14, 2001.

NOTE: Prior to repeal this section was amended by Laws 2001, c. 113, § 1, and renumbered from § 743 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001, to read as follows:

If any fire, set as provided in Section 16-28 of this title, should by accident and without any fault or neglect of the person setting the fire, get beyond the person's control, the person shall be liable as provided in Section 16-25 of this title for all damages done by the fire, but not otherwise. If the fire should by negligence, carelessness, or by intention be permitted to spread beyond the bounds of the land mentioned in Section 16-28 of this title, then the person setting the fire shall be liable both civilly and criminally as provided in Section 16-25 of this title.

§2-16-30. Civil liability.

Any person violating any of the provisions of the Oklahoma Forestry Code shall be liable for all damages caused by any violation, damages shall be recoverable in any court of competent jurisdiction.

Added by Laws 1971, c. 349, § 209, emerg. eff. June 24, 1971.

Amended by Laws 2001, c. 113, § 24, emerg. eff. April 18, 2001.

Renumbered from § 1301-209 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-31. Rewards.

The Forestry Division of the State Department of Agriculture may offer and pay rewards for information leading to the arrest and conviction of any person violating any of the provisions of the Oklahoma Forestry Code.

Added by Laws 1971, c. 349, § 210, emerg. eff. June 24, 1971.

Amended by Laws 2001, c. 113, § 25, emerg. eff. April 18, 2001.

Renumbered from § 1301-210 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-32. Liability for costs of suppressing fires.

Whoever willfully or carelessly shall cause an unlawful forest, grass, crops, or woods fire shall, in addition to all other penalties provided by law, be liable for payment of all reasonable costs and expenses incurred in suppressing the fire. The costs and expenses shall be payable to the Forestry Division or other governmental units, who shall, in the case of cooperating persons, disburse the funds in proportionate share based on standard suppression costs. When the costs and expenses are not paid within ninety (90) days after written notice of demand, it shall be the duty of the district attorney having jurisdiction to take proper legal proceedings for collection. The liability for costs of suppression shall exist whether there is criminal prosecution or not and the liability shall extend to the person or persons causing, directing, or permitting the activity as well as to the actual violator.

Added by Laws 1971, c. 349, § 212, emerg. eff. June 24, 1971.

Amended by Laws 2001, c. 113, § 26, emerg. eff. April 18, 2001.

Renumbered from § 1301-212 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-33. Penalty for mutilating or destroying state forestry or fire controlsigns and posters.

Whoever intentionally breaks down, mutilates, removes, or destroys any fire control or forestry sign or poster of the Division of Forestry erected in the administration of its lawful duties and authorities shall be guilty of a misdemeanor and shall be subject to imprisonment not exceeding three (3) months, by fine not exceeding Two Hundred Dollars (\$200.00), or by both.

Added by Laws 1971, c. 349, § 213, emerg. eff. June 24, 1971.

Amended by Laws 2001, c. 113, § 27, emerg. eff. April 18, 2001.

Renumbered from § 1301-213 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-34. Illegal possession of incendiary device.

A. Any person possessing any incendiary device as defined by subsection B of this section with the intent to use the device for the purpose of burning or setting fire to any forest, grass, crops, or woodlands that the person possessing that device is not the owner

of nor in possession of lawfully, as under a lease, shall be guilty of a felony punishable by a fine of not more than One Thousand Dollars (\$1,000.00), by imprisonment for not more than three (3) years, or by both.

B. The term "incendiary device" as used in this section includes, but is not limited to, any "slow match" which is any device contrived to accomplish the delayed ignition of a match or matches or other flammable material by the use of a cigarette, rope, or candle to which the match or matches are attached, or a magnifying glass focused to intensify heat on flammable material and cause a fire to start at a subsequent time, or any chemicals, chemically treated paper or material, or other combustible material arranged or designed to make possible its use as a delayed firing device.

Added by Laws 1971, c. 349, § 214, emerg. eff. June 24, 1971.

Amended by Laws 1997, c. 133, § 100, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 36, eff. July 1, 1999; Laws 2001, c. 113, § 28, emerg. eff. April 18, 2001. Renumbered from § 1301-214 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 100 from July 1, 1998, to July 1, 1999.

§2-16-35. Compact authorized - Form and provisions.

The Governor, on behalf of this state, is authorized to execute a compact, in substantially the following form, with any one or more of the states of Arkansas, Louisiana, Mississippi, and Texas, and the Legislature signifies in advance its approval and ratification of the compact:

SOUTH CENTRAL INTERSTATE FOREST FIRE PROTECTION COMPACT

ARTICLE I.

The purpose of this compact is to promote effective prevention and control of forest fires in the South Central region of the United States by the development of integrated forest fire plans, by the maintenance of adequate forest fire fighting services by the member states, by providing for mutual aid in fighting forest fires among the compacting states of the region and with states which are party to other Regional Forest Fire Protection compacts or agreements, and for more adequate forest development.

ARTICLE II.

This compact shall become operative immediately as to those states ratifying it whenever any two or more of the states of Arkansas, Louisiana, Mississippi, Oklahoma and Texas which are contiguous have ratified it and Congress has given consent thereto. Any state not mentioned in this article which is contiguous with any member state may become a party to this compact, subject to approval by the Legislature of each of the member states.

ARTICLE III.

In each state, the state forester or officer holding the equivalent position who is responsible for forest fire control shall act as compact administrator for that state and shall consult with like officials of the other member states and shall implement cooperation between such states in forest fire prevention and control.

The compact administrators of the member states shall organize to coordinate the services of the member states and provide administrative integration in carrying out the purposes of this compact.

There shall be established an advisory committee of legislators, forestry commission representatives, and forestry or forest products industries representatives which shall meet, from time to time, with the compact administrators. Each member state shall name one member of the Senate and one member of the House of Representatives, and the Governor of each member state shall appoint one representative who shall be the chairman of the state forestry commission or comparable official and one representative who shall be associated with forestry or forest products industries to comprise the membership of the advisory committee. Action shall be taken by a majority of the compacting states, and each state shall be entitled to one vote.

The compact administrators shall formulate and, in accordance with need, from time to time, revise a regional forest fire plan for the member states.

It shall be the duty of each member state to formulate and put in effect a forest fire plan for that state and take such measures as may be necessary to integrate such forest fire plan with the regional forest fire plan formulated by the compact administrators.

ARTICLE IV.

Whenever the state forest fire control agency of a member state requests aid from the state forest fire control agency of any other member state in combating, controlling or preventing forest fires, it shall be the duty of the state forest fire control agency of that state to render all possible aid to the requesting agency which is consonant with the maintenance of protection at home.

ARTICLE V.

Whenever the forces of any member state are rendering outside aid pursuant to the request of another member state under this compact, the employees of such state shall, under the direction of the officers of the state to which they are rendering aid, have the same powers (except the power of arrest), duties, rights, privileges and immunities as comparable employees of the state to which they are rendering aid.

No member state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection

therewith: Provided, that nothing herein shall be construed as relieving any person from liability for his own negligent act or omission, or as imposing liability for such negligent act or omission upon any state.

All liability, except as otherwise provided herein, that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

Any member state rendering outside aid pursuant to this compact shall be reimbursed by the member state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries, and maintenance of employees and equipment incurred in connection with such request; provided, that nothing herein contained shall prevent any assisting member state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such service to the receiving member state without charge or cost.

Each member state shall provide for the payment of compensation and death benefits to injured employees and the representatives of deceased employees in case employees sustain injuries or are killed while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within such state.

For the purposes of this compact the term "employee" shall include any volunteer or auxiliary legally included within the forest fire fighting forces of the aiding state under the laws thereof.

The compact administrators shall formulate procedures for claims and reimbursement under the provisions of this article, in accordance with the laws of the member states.

ARTICLE VI.

Ratification of this compact shall not be construed to affect any existing statute so as to authorize or permit curtailment or diminution of the forest fire fighting forces, equipment, services or facilities of any member state.

Nothing in this compact shall be construed to limit or restrict the powers of any state ratifying the same to provide for the prevention, control and extinguishment of forest fires, or to prohibit the enactment or enforcement of state laws, rules or regulations intended to aid in such prevention, control and extinguishment in such state.

Nothing in this compact shall be construed to affect any existing or future cooperative relationship or arrangement between the United States Forest Service and a member state or states.

ARTICLE VII.

The compact administrators may request the United States Forest Service to act as the primary research and coordinating agency of the South Central Interstate Forest Fire Protection Compact in cooperation with the appropriate agencies in each state, and the United States Forest Service may accept the initial responsibility in preparing and presenting to the compact administrators its recommendations with respect to the regional fire plan. Representatives of the United States Forest Service may attend meetings of the compact administrators.

ARTICLE VIII.

The provisions of Articles IV and V of this compact which relate to mutual aid in combating, controlling or preventing forest fires shall be operative as between any state party to this compact and any other state which is party to a regional forest fire protection compact in another region; provided, that the legislature of such other state shall have given its assent to such mutual aid provisions of this compact.

ARTICLE IX.

This compact shall continue in force and remain binding on each state ratifying it until the legislature or the Governor of such state takes action to withdraw therefrom. Such action shall not be effective until six (6) months after notice thereof has been sent by the chief executive of the state desiring to withdraw to the chief executives of all states then parties to the compact.
Added by Laws 1953, p. 570, § 1. Renumbered from § 354.1 of Title 74 by Laws 1971, c. 349, § 402, emerg. eff. June 24, 1971. Amended by Laws 2001, c. 113, § 29, emerg. eff. April 18, 2001. Renumbered from § 1301-215 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-36. When compact operative - Exchange of official documents.

When the Governor executes the compact on behalf of this state and causes a verified copy of the compact to be filed with the Secretary of State, and when the compact has been ratified by one or more of the states named in Section 16-35 of this title, then the compact shall become operative and effective as between this state and any other state or states. The Governor is authorized and directed to take action necessary to complete the exchange of official documents between this state and any other state ratifying the compact.

Added by Laws 1953, p. 572, § 2. Renumbered from § 354.2 of Title 74 by Laws 1971, c. 349, § 402, emerg. eff. June 24, 1971. Amended by Laws 2001, c. 113, § 30, emerg. eff. April 18, 2001. Renumbered from § 1301-216 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-37. Governor as Compact Administrator - Delegation of duties.

The Governor is designated as the official Compact Administrator of the State of Oklahoma under the South Central Interstate Forest Fire Protection Compact and shall exercise and perform for the State of Oklahoma all the powers and duties imposed by the compact upon the Compact Administrator. The Governor shall have authority to delegate the exercise of the powers and duties to the Director of Forestry, Division of Forestry, State Board of Agriculture. The Director of Forestry shall be Assistant Compact Administrator and shall act as the official representative of the State of Oklahoma and the Compact Administrator pursuant to the delegation to the Assistant Compact Administrator of the powers and duties. In addition, the Assistant Compact Administrator shall perform other duties as the Governor may designate that are necessary to enable the State of Oklahoma to cooperate in accomplishing the objectives of the compact.

Added by Laws 1953, p. 572, § 3. Renumbered from § 354.3 of Title 74 by Laws 1971, c. 349, § 402, emerg. eff. June 24, 1971. Amended by Laws 2001, c. 113, § 31, emerg. eff. April 18, 2001. Renumbered from § 1301-217 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-38. Advisory Committee.

The Oklahoma members of the Advisory Committee referred to in Article III of the South Central Interstate Forest Fire Protection Compact shall be selected as follows: One member shall be named from the membership of the Senate of the State of Oklahoma by the President Pro Tempore; One member shall be named from the membership of the House of Representatives of the State of Oklahoma by the Speaker of the House; Two members shall be appointed by the Governor, provided, that one of the two members appointed by the Governor shall be the President of the State Board of Agriculture, and the other member appointed by the Governor shall be a person associated with forestry or forest products industries.

Added by Laws 1953, p. 573, § 4. Renumbered from § 354.4 of Title 74 by Laws 1971, c. 349, § 402, emerg. eff. June 24, 1971. Amended by Laws 2001, c. 113, § 32, emerg. eff. April 18, 2001. Renumbered from § 1301-218 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-39. Compensation for injury or death.

Any employee of the State of Oklahoma who is injured or killed while rendering aid outside the State of Oklahoma pursuant to the provisions of the South Central Interstate Forest Fire Protection Compact shall be entitled to compensation and death benefits, if any, in the same manner and on the same terms as if the injury or death were sustained within the State of Oklahoma.

Laws 1953, p. 573, § 5. Renumbered from Title 74, § 354.5 by Laws 1971, c. 349, § 402, emerg. eff. June 24, 1971. Renumbered from §

1301-219 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-40. Actions for damages - Pleading and proof of title to realty unnecessary - Railroads' liability for damages by fire.

In any action instituted in any court to recover damages under the provisions of the Oklahoma Forestry Code, it shall not be necessary for any person, injured by any fire to allege in pleadings or prove on trial title to the real property over which the fire has spread, but it shall be sufficient in any action to allege and prove that the person injured was in the occupancy or possession of any ranch, buildings, improvements, hay, grass, crops, fencing, timber, marsh, or other property, claiming the right to and occupying with cattle any cattle range; it being the purpose and intention of this code to protect the possession of any person whether the person has title to the land claimed or occupied or not. Any railroad company operating any line in this state shall be liable for all damages sustained by fire originating from operating its road.

R.L.1910, § 114. Amended by Laws 2001, c. 113, § 2, emerg. eff. April 18, 2001. Renumbered from § 748 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-51. Board may acquire land for forestry purposes.

The State Board of Agriculture for its Forestry Division on behalf of the state may acquire land suitable for nurseries, seed orchards, state forests, school forests, tower, recreation and other sites by gift, donation, or purchase and may enter into agreements with the federal government or other agency for acquiring by gift or purchase the lands that are, in the judgment of the Board, suitable and desirable for the above purposes.

Added by Laws 1971, c. 349, § 301, emerg. eff. June 24, 1971.

Amended by Laws 2001, c. 113, § 33, emerg. eff. April 18, 2001.

Renumbered from § 1301-301 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-52. Restrictions upon acquisition of lands - Lease by Commissioners of Land Office - Terms and conditions.

A. The State Board of Agriculture shall enter into no agreement for the acquisition, lease, or purchase of any land or for any other purpose whatsoever which shall pledge the credit of, or obligate in any manner whatsoever, the state to pay any sum of money or other thing of value for any purpose, and the Board shall not in any manner or for any purpose pledge the credit of or obligate the state to pay any sum of money. The Board may receive, hold the custody of, and exercise control of any lands, and set aside into a separate, distinct, and inviolable fund the proceeds which may be derived from the sales of the products of any lands, to use in any manner, or the

sale of the lands save the twenty-five percent (25%) of the proceeds of the sale to be paid into the state school fund. The Board may use and apply the funds for the acquisition, use, custody, management, development, or improvement of any lands vested in or subject to the control of the Board. After full payment has been made for the purchase of a state forest, to the federal government or other grantor, then fifteen percent (15%) of the gross receipts from a state forest shall be paid to the county or counties in which it is located in proportion to the acreage located in each county for use by the county or counties for school purposes; except that payment of gross receipts shall only apply to the state forest lands and not other lands listed in Section 16-51 of this title.

B. The Commissioners of the Land Office are authorized and directed to make and enter into a lease for a period of ten (10) years, with privilege of renewing at the end of each ten-year period, with the State Department of Agriculture, Forestry Division, the following described land and premises:

Lots One (1) and Two (2) and the East Half (E 1/2) of the Northwest Quarter (NW 1/4) and the West Half (W 1/2) of the Northeast Quarter (NE 1/4) of Section Seven (7), Township Six (6) South, Range Twenty-five (25) East of the Indian Meridian, containing two hundred forty (240) acres, more or less, situated in McCurtain County, State of Oklahoma.

The lease shall contain the following provisions in addition to any which may be agreed upon by the Commissioners of the Land Office and the State Department of Agriculture, Forestry Division:

1. The lessee shall maintain on the property the administrative headquarters for the Southeast Area of the Forestry Division;
2. The lessee shall maintain, repair, and preserve all improvements located on the described lands;
3. The lessee shall maintain and carry out a forestry plan for the entire two hundred forty-acre tract and do the necessary planting and other forestry work to restore the timber growth to its maximum productive value;
4. The lessee shall take all necessary and proper measures to protect the area from fire and theft;
5. The lessee shall formulate and carry out a plan for harvesting of the timber so that maximum financial return may be realized for the state, and that the maximum value shall be realized for demonstration purposes;
6. Unless changed by law, the annual rental payable annually of five percent (5%) per year of the appraised value of the lands without improvement shall be paid out of funds appropriated to the lessee into the common school fund of this state.

Added by Laws 1971, c. 349, § 302, emerg. eff. June 24, 1971.

Amended by Laws 2001, c. 113, § 34, emerg. eff. April 18, 2001.

Renumbered from § 1301-302 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-53. Use of lands acquired.

All lands acquired by the State Board of Agriculture on behalf of the state shall be in the custody of and subject to the jurisdiction, management, and control of the Board and, for the purposes and the utilization and development of the land, the Board may use the proceeds of the sale of any products; the proceeds of the sale of any lands, save the twenty-five percent (25%) of the proceeds which shall be paid into the state school fund; and other funds appropriated for use by the Board and, in the opinion of the Board, available for any uses and purposes.

Added by Laws 1971, c. 349, § 303, emerg. eff. June 24, 1971.

Amended by Laws 2001, c. 113, § 35, emerg. eff. April 18, 2001.

Renumbered from § 1301-303 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-54. Disposition of lands.

The State Board of Agriculture may sell, exchange, lease, or dispose of any lands under its jurisdiction by the provisions of the Oklahoma Forestry Code when in its judgment it is advantageous to the state. All sales, exchanges, leases, or dispositions of lands shall be at least upon a thirty-day public notice, to be given by the Board, and shall be by sealed competitive bids, and awarded to the highest bidder.

Added by Laws 1971, c. 349, § 304, emerg. eff. June 24, 1971.

Amended by Laws 2001, c. 113, § 36, emerg. eff. April 18, 2001.

Renumbered from § 1301-304 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-55. Urban forestry duties - Shade and environmental improvement.

The State Board of Agriculture is empowered to cooperate with the United States Secretary of Agriculture and with communities, towns, cities, and individuals in the planning, care, and management of trees and forests for shade, ornamental, and recreational purposes, and to improve air quality, reduce noise, and conserve soil, water, and ecological balance. Forest management to meet human needs for forest products is also authorized.

Added by Laws 1971, c. 349, § 305, emerg. eff. June 24, 1971.

Amended by Laws 2001, c. 113, § 37, emerg. eff. April 18, 2001.

Renumbered from § 1301-305 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-56. Scientific forest management on state lands, wilderness excepted.

The purpose of the provisions of the Oklahoma Forestry Code relating to forest management is to encourage the practice of scientific forest management on all lands owned by the State of Oklahoma according to standards that shall manage, protect, utilize, and perpetuate suitable trees for their many benefits. The provisions of the Oklahoma Forestry Code shall not be construed to apply to state-owned land in wilderness areas.

Added by Laws 1971, c. 349, § 306, emerg. eff. June 24, 1971.

Amended by Laws 2001, c. 113, § 38, emerg. eff. April 18, 2001.

Renumbered from § 1301-306 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-57. Advice by director of forestry - Forest management for all state agencies.

The Director shall have authority to advise the several agencies, departments, institutions, bureaus, offices, and all other administrative units of the State of Oklahoma, having state-owned lands under their control, concerning forestry management practices and programs that shall most effectively carry out the purposes of the Oklahoma Forestry Code. The Director shall issue, or cause to be issued, the most scientific forestry management practice and shall distribute this information, assisted financially by the administrative unit of state government having control over the lands.

Added by Laws 1971, c. 349, § 307, emerg. eff. June 24, 1971.

Amended by Laws 2001, c. 113, § 39, emerg. eff. April 18, 2001.

Renumbered from § 1301-307 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-58. State land management guidelines.

To effectuate the purposes of the Oklahoma Forestry Code, the Director of Forestry, or persons designated by the Director, shall have authority, and it shall be the Director's duty, to prescribe rules necessary to insure the conservation and protection of suitable trees on lands owned by the State of Oklahoma. The rules shall include, but shall not be limited to, the following:

1. Require that a good growing stock of suitable trees shall be established and maintained on the land at all times to bring the land to full productivity;

2. Provide that suitable trees be managed for the most profitable products or other benefits; and

3. Require adequate fire protection at all times.

Added by Laws 1971, c. 349, § 308, emerg. eff. June 24, 1971.

Amended by Laws 2001, c. 113, § 40, emerg. eff. April 18, 2001.

Renumbered from § 1301-308 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-59. Removal of pine timber or products from state lands.

No timber or other timber products shall be removed from any lands owned by the State of Oklahoma, except for public utilities and improvements, and no officer, employee, or any other person employed by the State of Oklahoma shall authorize the removal, except upon written approval of the Director of Forestry. In carrying out the duties of this section, the Director is authorized to delegate authority to persons qualified to act in the Director's behalf.

Any person violating this section shall be guilty of a felony and upon conviction be punished, for the first offense by a fine not exceeding One Thousand Dollars (\$1,000.00), by imprisonment in the State Penitentiary for not exceeding one (1) year, or by both. For any subsequent offense, the person shall be punished by a fine not exceeding Five Thousand Dollars (\$5,000.00), by imprisonment in the State Penitentiary for not exceeding three (3) years, or both.

Added by Laws 1971, c. 349, § 309, emerg. eff. June 24, 1971.

Amended by Laws 1997, c. 133, § 101, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 37, eff. July 1, 1999; Laws 2001, c. 113, § 41, emerg. eff. April 18, 2001. Renumbered from § 1301-309 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 101 from July 1, 1998, to July 1, 1999.

§2-16-60. Wrongful injuries to timber - Criminal penalties.

A. 1. Any person who intentionally, willfully, maliciously, or unlawfully enters upon the lands of another to cut down, injure, remove, or destroy any timber valued at more than Two Hundred Dollars (\$200.00), without the permission of the owner or the owner's representative shall be guilty, upon conviction, of a felony, punishable by the imposition of a fine of not more than Ten Thousand Dollars (\$10,000.00), by imprisonment in the State Penitentiary for not more than five (5) years, or both.

2. Any person who intentionally, willfully, maliciously, or unlawfully enters upon the lands of another to cut down, injure, remove, or destroy any timber valued at Two Hundred Dollars (\$200.00) or less, without the permission of the owner or the owner's representative shall be guilty, upon conviction, of a misdemeanor, punishable by the imposition of a fine of not more than One Thousand Dollars (\$1,000.00) or imprisonment in the county jail for not more than thirty (30) days.

3. The necessary trimming and removal of timber to permit the construction, repair, maintenance, cleanup, and operations of pipelines and utility lines and appurtenances of public utilities, public service corporations, and to aid registered land surveyors and professional engineers in the performance of their professional services, and municipalities, and pipeline companies, or lawful operators and product purchasers of oil and gas shall not be deemed a

willful and intentional cutting down, injuring, removing, or destroying of timber.

4. The necessary trimming and removal of timber for boundary line maintenance, for the construction, maintenance, and repair of streets, roads, and highways or for the control and regulation of traffic by the state and its political subdivisions or registered land surveyors and professional engineers shall not be deemed a willful and intentional cutting down, injuring, removing, or destroying of timber.

B. In addition to the punishment prescribed in subsection A of this section, the person is liable in damages pursuant to Section 72 of Title 23 of the Oklahoma Statutes for the damage or injury done to the timber, the damages to be recovered in a civil action by the owner of the property or the public officer having charge of the property.

Added by Laws 1971, c. 349, § 310, emerg. eff. June 24, 1971.

Amended by Laws 1982, c. 152, § 1, operative Oct. 1, 1982; Laws 1983, c. 323, § 1, eff. Nov. 1, 1983; Laws 1995, c. 238, § 3, eff. Nov. 1, 1995; Laws 1997, c. 133, § 102, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 38, eff. July 1, 1999; Laws 2001, c. 113, § 42, emerg. eff. April 18, 2001. Renumbered from § 1301-310 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 102 from July 1, 1998, to July 1, 1999.

§2-16-61. Notice to adjoining property owners of harvesting operations.

A. 1. Any timber owner involved in a logging or timber harvesting operation shall clearly mark any established property lines which are within one hundred (100) feet of the area to be cut.

2. If there is no established property line, the timber owner authorizing the logging or timber harvesting operation shall send by certified mail, return receipt requested, written notice of the logging or timber harvesting operation to the owner of record in the office of the county assessor or records of the county treasurer of any real property adjoining the cutting area at least ten (10) days prior to the commencement of the operation.

3. If the timber owner is unable to ascertain the address of the legal residence of the owner of record as recorded in the office of the county assessor or records of the county treasurer of any real property adjoining the cutting area, notice of the logging or timber harvesting operation shall be given by publication. The notice shall be published once in a newspaper of general circulation in the county in which the operation is to occur specifying the owner of the property and the legal description. The notice shall be published at least ten (10) days prior to commencement of the operation.

B. If the timber owner fails to clearly mark any established property lines or fails to mail or publish any notice to the abutting real property owners as required by this section and, as a result of that failure, timber is harvested or other damage occurs on any abutting real property without the consent of the owner, the timber owner shall be liable in damages pursuant to Section 72 of Title 23 of the Oklahoma Statutes to the owner of the abutting real property.

C. The provisions of this section shall not relieve the owner of the real property on which the timber is located from liability pursuant to Section 72 of Title 23 of the Oklahoma Statutes for failing to clearly mark or mismarking any property lines required by this section.

Added by Laws 1995, c. 238, § 4, eff. Nov. 1, 1995. Amended by Laws 2001, c. 113, § 43, emerg. eff. April 18, 2001. Renumbered from § 1301-310.1 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-62. Failure to notify adjoining property owners of harvesting operations - Criminal penalties.

A. Except as provided by this section, a timber owner who fails to ensure that the requirements of subsection A of Section 16-61 of this title have been fulfilled and who negligently authorizes or directs a logging or timber harvesting operation upon the lands of another, and cuts down, injures, removes, or destroys any timber without the permission of the owner is guilty, upon conviction, of a misdemeanor, punishable by the imposition of a fine of not more than One Thousand Dollars (\$1,000.00), by imprisonment in the county jail for not more than thirty (30) days, or by both.

B. Except as provided by this section any person who negligently enters upon the lands of another and cuts down, injures, removes, or destroys any timber without the permission of the owner is guilty, upon conviction, of a misdemeanor, punishable by the imposition of a fine of not more than One Thousand Dollars (\$1,000.00), by imprisonment in the county jail for not more than thirty (30) days, or by both.

Added by Laws 1995, c. 238, § 5, eff. Nov. 1, 1995. Amended by Laws 2001, c. 113, § 44, emerg. eff. April 18, 2001. Renumbered from § 1301-310.2 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-63. Fraudulent sales of timber - Failure to pay full price - Criminal penalties.

A. It shall be unlawful for any person willingly, knowingly, or fraudulently to represent, make, issue, deliver, use or submit, or to participate in representing, making, issuing, delivering, using, or submitting any fictitious, false or fraudulent offer, agreement, contract, or other instrument concerning:

1. The sale of timber or the right to cut or harvest or remove timber from a site or from real property not owned or leased by that person; or

2. The sale of timber or the right to cut or harvest or remove timber that is not owned by that person.

B. It shall be unlawful for a timber owner to, knowingly or with intent to defraud, fail to pay in a timely manner the applicable owners the full price of all the purchased timber.

1. A timber owner acts with intent to defraud if the timber owner disperses, uses, or diverts money with the intent to deprive an owner of the purchase money.

2. Unless otherwise agreed to in writing, a timber owner is presumed to have acted with intent to defraud if the timber owner does not pay all applicable owners for the purchase price of the timber not later than forty-five (45) calendar days after the date the timber owner collects money for the timber.

C. Any person convicted of violating the provisions of this section shall be guilty of:

1. A felony if the timber to be sold or right to cut or harvest the timber pursuant to subsection A of this section is valued at more than Two Hundred Dollars (\$200.00). Upon conviction the person shall be subject to the imposition of a fine of not more than Ten Thousand Dollars (\$10,000.00), or by imprisonment in the State Penitentiary for not more than five (5) years, or to both; or

2. A misdemeanor if the timber to be sold or right to cut or harvest the timber pursuant to subsection A of this section is valued at Two Hundred Dollars (\$200.00) or less. Upon conviction the person shall be subject to the imposition of a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail not to exceed one (1) year, or to both.

Added by Laws 1995, c. 238, § 6, eff. Nov. 1, 1995. Amended by Laws 1997, c. 133, § 103, eff. July 1, 1999; Laws 1999, 1st Ex. Sess., c. 5, § 39, eff. July 1, 1999; Laws 2001, c. 113, § 45, emerg. eff. April 18, 2001. Renumbered from § 1301-310.3 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001. Amended by Laws 2002, c. 173, § 13, emerg. eff. May 6, 2002.

NOTE: Laws 1998, 1st Ex. Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 103 from July 1, 1998, to July 1, 1999.

§2-16-64. Documentation to be maintained by harvesters.

A. Except as provided by subsection B of this section, any owner or operator of a logging or timber harvesting operation shall maintain at all times during the operation, for inspection purposes by law enforcement personnel, a written bill of sale, timber deed or timber contract, recording memorandum, or written consent of the timber owner for the timber being harvested.

B. The provisions of subsection A of this section shall not apply to any owner or operator of a logging or timber harvesting operation if a timber deed, written bill of sale or timber contract or written consent, recording or memorandum is recorded in the records of the county clerk of the county in which the timber is harvested or to be harvested.

C. Any deed, written bill of sale, contract, or written consent for logging or timber harvesting operation pursuant to this section shall include:

1. A description of the timber to be removed;
2. The date of execution and expiration of the contract or consent, bill of sale, or deed;
3. The name and address of the timber owner and the timber purchaser; and
4. The legal description of the real property where the timber is harvested.

D. Any written bill of sale, timber deed or timber contract, recording memorandum, or written consent of the timber owner required by subsection A of this section shall be preserved by the owner or operator of a logging or timber harvesting operation for at least a period of three (3) years.

Added by Laws 1995, c. 238, § 7, eff. Nov. 1, 1995. Amended by Laws 1996, c. 26, § 1, emerg. eff. April 3, 1996; Laws 2001, c. 113, § 46, emerg. eff. April 18, 2001. Renumbered from § 1301-310.4 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-65. Evidence of ownership to be required by timber purchasers.

A. 1. Except as provided by this section, it shall be the duty of any sawmill owner or operator or other person purchasing timber for resale, from a timber owner or owner or operator of a logging or timber harvesting operation to obtain from the timber owner or owner or operator of a logging or timber harvesting operation a bill of sale for the same or other evidence of ownership which shall be preserved by the purchaser for a period of three (3) years and shall be available for inspection by law enforcement personnel.

2. The bill of sale shall include:

- a. the name and address of the seller and purchaser,
- b. a legal description of the land from which the timber was harvested,
- c. a description of timber delivered,
- d. the date delivered,
- e. the printed name of the person delivering the timber, and
- f. the date and signature of the person delivering the timber with language declaring ownership of the timber or naming the person to whom the person delivering the timber is an agent.

B. In lieu of the bill of sale required by subsection A of this section, the purchaser may provide for proof of timber ownership through a written purchase contract which provides language declaring ownership of timber delivered for purchase to the purchaser by the timber owner. The declaration shall be signed by the timber owner or by a designee pursuant to a written authorization signed by the timber owner. The written authorization shall be retained by the designee.

Added by Laws 1995, c. 238, § 8, eff. Nov. 1, 1995. Amended by Laws 1996, c. 26, § 2, emerg. eff. April 3, 1996; Laws 2001, c. 113, § 47, emerg. eff. April 18, 2001. Renumbered from § 1301-310.5 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-66. Use of false identification or declaration of ownership - Criminal penalties.

Any person selling timber who uses false or altered identification or a false declaration of ownership, pursuant to the provisions of Section 16-65 of this title, upon conviction, shall be guilty of:

1. A felony if the timber to be sold by use of a false or altered identification or false declaration of ownership is valued at more than Two Hundred Dollars (\$200.00). Upon conviction, a person shall be subject to the imposition of a fine of not more than Ten Thousand Dollars (\$10,000.00), imprisonment in the State Penitentiary for not more than five (5) years, or both; or

2. A misdemeanor if the timber to be sold by use of a false or altered identification or false declaration of ownership is valued at Two Hundred Dollars (\$200.00) or less. Upon conviction, a person shall be subject to the imposition of a fine of not more than One Thousand Dollars (\$1,000.00), imprisonment in the county jail not to exceed one (1) year, or both.

Added by Laws 1995, c. 238, § 9, eff. Nov. 1, 1995. Amended by Laws 1997, c. 133, § 104, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 40, eff. July 1, 1999; Laws 2001, c. 113, § 48, emerg. eff. April 18, 2001. Renumbered from § 1301-310.6 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 104 from July 1, 1998, to July 1, 1999.

§2-16-67. Forestry in schools - Rangers and teachers to cooperate.

A. It shall be the duty of all forest rangers to distribute in all of the public schools and high schools of the county in which they are serving all the books, periodicals, and other literature that may, from time to time, be sent out to the rangers by the state and federal forestry agencies dealing with forest conservation, development, protection, and management.

B. It shall be the duty of the various rangers under the direction of the Director, and the duty of the teachers of the various schools, both public schools and high schools, to post at some conspicuous place in the various classrooms of the school buildings the appropriate bulletins and posters as may be sent out from the forestry agencies for that purpose; and the teachers and rangers may prepare lectures or talks to be made to the pupils of the various schools on the subject of forest fires, their origin and their destructive effect on the plant life and tree life of the forests of the state, the development and scientific management of the forests of the state, and may be prepared to give practical instruction to their pupils as often as they may find it possible to do so.

Added by Laws 1971, c. 349, § 311, emerg. eff. June 24, 1971.

Amended by Laws 2001, c. 113, § 49, emerg. eff. April 18, 2001.

Renumbered from § 1301-311 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-68. Arbor Week.

The last full week in March of each year shall be known throughout Oklahoma as Arbor Week.

Added by Laws 1971, c. 349, § 312, emerg. eff. June 24, 1971.

Amended by Laws 1982, c. 40, § 1, emerg. eff. March 26, 1982.

Renumbered from § 1301-312 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-69. State tree - Redbud.

The redbud tree shall be adopted and the same be made the official tree of this state.

Added by Laws 1971, c. 349, § 313, emerg. eff. June 24, 1971.

Renumbered from § 1301-313 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-70. Management to be for public interest.

All state forests, all programs in management, nursery production, reforestation, urban forestry, educational activities, and other forestry endeavors of the Forestry Division shall be managed and administered by the State Board of Agriculture in the interest of the public. If the public interests are not already safeguarded and clearly defined by law or by rules adopted by the state agencies authorized by law to administer the lands, or in the papers formally transferring the projects to the Board for administration, then, and in that event, the Board may promulgate rules defining the purpose of the project.

Added by Laws 1971, c. 349, § 314, emerg. eff. June 24, 1971.

Amended by Laws 2001, c. 113, § 50, emerg. eff. April 18, 2001.

Renumbered from § 1301-314 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-71. Renumbered as § 10.1 of Title 76 by Laws 2004, c. 368, § 68, eff. Nov. 1, 2004.

§2-16-71.1. Oklahoma Limitation of Liability for Farming and Ranching Land Act - Purpose - Definitions - Applicability of act to land used for purposes other than farming and ranching.

A. Sections 16-71.1 through 16-71.7 of this title shall be known and may be cited as the "Oklahoma Limitation of Liability for Farming and Ranching Land Act".

B. The purpose of the Oklahoma Limitation of Liability for Farming and Ranching Land Act is to encourage owners of farming and ranching lands to make such land available for recreational purposes by limiting their liability to persons entering or using the farm and ranch land and to third persons who may be damaged by the acts or omissions of persons entering upon or using these lands.

C. As used in the Oklahoma Limitation of Liability for Farming and Ranching Land Act:

1. "Land" means land which is used for farming, ranching activities and recreational purposes, as defined in this section, including, but not limited to, roads, water, watercourses, private ways, buildings, structures, and machinery or equipment when attached to realty which is used primarily for farming or ranching activities;

2. "Owner" means the possessor of a fee interest, a tenant, lessee, occupant or person in control of the premises but shall not include a tenant, lessee, occupant or person in control of the premises who is engaging in any recreational purpose described in paragraph 3 of this subsection; and

3. "Recreational purpose" includes any of the following, or any combination thereof: hunting, fishing, wildlife and ecological viewing or photography, recreational farming and ranching activities, swimming, boating, camping, picnicking, hiking, pleasure driving, jogging, cycling, other similar events and activities, nature study, water skiing, winter sports, jet skiing, viewing or enjoying historical, archaeological, scenic, or scientific sites and aviation, including fly-ins at private airports.

D. The Oklahoma Limitation of Liability for Farming and Ranching Land Act shall not apply to any land that is used for purposes other than farming and ranching. Such land shall be governed by Section 10.1 of Title 76 of the Oklahoma Statutes.

Added by Laws 1965, c. 384, § 1, emerg. eff. June 30, 1965. Amended by Laws 2004, c. 368, § 26, eff. Nov. 1, 2004. Renumbered from § 10 of Title 76 by Laws 2004, c. 368, § 67, eff. Nov. 1, 2004. Amended by Laws 2013, c. 236, § 1, eff. Nov. 1, 2013; Laws 2018, c. 42, § 1 and Laws 2018, c. 198, § 1, eff. Nov. 1, 2018.

NOTE: Laws 2018, c. 42, § 1 and Laws 2018, c. 198, § 1 made identical amendments to this section.

§2-16-71.2. Entry upon farm or ranch lands for recreational purposes - Duty of owner.

Except as specifically recognized by or provided in Section 16-71.5 of this title, an owner who provides the public with land for recreational purposes which is used primarily for farming or ranching activities owes no duty of care to keep the land safe for entry or use by others for recreational purposes, or to give any warning of a dangerous or hazardous condition, use, structure, or activity on such land to persons entering or using the land for such purposes.

Added by Laws 1965, c. 384, § 2, emerg. eff. June 30, 1965. Amended by Laws 2004, c. 368, § 27, eff. Nov. 1, 2004. Renumbered from § 11 of Title 76 by Laws 2004, c. 368, § 67, eff. Nov. 1, 2004. Amended by Laws 2018, c. 42, § 2 and Laws 2018, c. 198, § 2, eff. Nov. 1, 2018.

NOTE: Laws 2018, c. 42, § 2 and Laws 2018, c. 198, § 2 made identical amendments to this section.

§2-16-71.3. Entry upon or use of land for recreational purposes - Liability of owner - Applicability of section to state or other governmental unit.

A. Except as specifically recognized by or provided in Section 16-71.5 of this title, an owner of land which is used primarily for farming or ranching activities, who either directly or indirectly invites or permits, under the circumstance described in subsection B of Section 16-71.1 of this title, any person to enter or use such land for recreational purposes, does not:

1. Extend any assurance that the premises are safe for any purpose;
2. Incur any duty of care toward a person who enters or uses the land; or
3. Assume responsibility or incur liability for any injury to person or property caused by an act or omission of such persons.

B. This section applies whether the person entering, or using the land is an invitee, licensee, or otherwise.

C. This section does not affect the liability of an insurer or insurance plan in an action under the Insurance Code, or an action for bad faith conduct, breach of fiduciary duty, or negligent failure to settle a claim.

D. This section shall not apply to the state or other governmental unit.

Added by Laws 1965, c. 384, § 3, emerg. eff. June 30, 1965. Amended by Laws 1967, c. 368, § 1, emerg. eff. May 22, 1967; Laws 2004, c. 368, § 28, eff. Nov. 1, 2004. Renumbered from § 12 of Title 76 by

Laws 2004, c. 368, § 67, eff. Nov. 1, 2004. Amended by Laws 2018, c. 42, § 3 and Laws 2018, c. 198, § 3, eff. Nov. 1, 2018.

NOTE: Laws 2018, c. 42, § 3 and Laws 2018, c. 198, § 3 made identical amendments to this section.

§2-16-71.4. Applicability of Sections 16-71.2 and 16-71.3 to duties and liability of owner.

Unless otherwise agreed in writing, the provisions of Sections 16-71.2 and 16-71.3 of this title shall be deemed applicable to the duties and liability of an owner of land which is used primarily for farming or ranching activities, is on or adjoins land entered upon the National Register of Historic Places and for which an easement has been granted to the Oklahoma Historical Society, or is leased to the state or any subdivision thereof for recreational purposes.

Added by Laws 1965, c. 384, § 4, emerg. eff. June 30, 1965. Amended by Laws 1994, c. 38, § 1, emerg. eff. April 11, 1994; Laws 2004, c. 368, § 29, eff. Nov. 1, 2004. Renumbered from § 13 of Title 76 by Laws 2004, c. 368, § 67, eff. Nov. 1, 2004. Amended by Laws 2018, c. 42, § 4 and Laws 2018, c. 198, § 4, eff. Nov. 1, 2018.

NOTE: Laws 2018, c. 42, § 4 and Laws 2018, c. 198, § 4 made identical amendments to this section.

§2-16-71.5. Liability not limited by act.

Nothing in the Oklahoma Limitation of Liability for Farming and Ranching Land Act limits in any way any liability which otherwise exists for want of ordinary care or for deliberate, willful, or malicious injury or failure to guard or warn against a dangerous or hazardous condition, use, structure, or activity.

Added by Laws 1965, c. 384, § 5, emerg. eff. June 30, 1965. Amended by Laws 2004, c. 368, § 30, eff. Nov. 1, 2004. Renumbered from § 14 of Title 76 by Laws 2004, c. 368, § 67, eff. Nov. 1, 2004. Amended by Laws 2018, c. 42, § 5 and Laws 2018, c. 198, § 5, eff. Nov. 1, 2018.

NOTE: Laws 2018, c. 42, § 5 and Laws 2018, c. 198, § 5 made identical amendments to this section.

§2-16-71.6. Duty of care or ground of liability not created -
Persons entering or using lands not relieved of duty of care -
Release or waiver binding.

A. Nothing in the Oklahoma Limitation of Liability for Farming and Ranching Land Act shall be construed to:

1. Create a duty of care or ground of liability for injury to persons or property; or

2. Relieve any person entering or using the land of another for recreational purposes from any obligation which such person may have in the absence of the Oklahoma Limitation of Liability for Farming and Ranching Land Act to exercise care in the use of such land and in

the activities thereon, or from the legal consequences of failure to employ such care.

B. 1. No person who has executed a written release of liability or a waiver to sue may maintain an action against or recover damages from a land owner in contravention of the release or waiver for any personal injury or injury to property. The terms of the executed release or waiver shall be binding upon the person signing the document. The provisions of this subsection shall apply regardless of the amount charged per acre for a recreational activity.

2. A release or waiver executed pursuant to this subsection shall not limit the liability of a land owner for willful or wanton acts of negligence or gross negligence.

Added by Laws 1965, c. 384, § 6, emerg. eff. June 30, 1965. Amended by Laws 2004, c. 368, § 31, eff. Nov. 1, 2004. Renumbered from § 15 of Title 76 by Laws 2004, c. 368, § 67, eff. Nov. 1, 2004.

§2-16-71.7. Agricultural land - Trespass - Duty owed.

A. An owner, lessee, or other occupant of agricultural land:

1. Does not owe a duty of care to a trespasser on the land; and

2. Is not liable for any injury to a trespasser, except for willful or wanton acts of negligence or gross negligence by the owner, lessee, or other occupant of the land.

B. Agricultural land is defined as any real property that is used in production of plants, fruits, wood, or farm or ranch animals to be sold off the premises.

Added by Laws 1991, c. 231, § 14, eff. Sept. 1, 1991. Amended by Laws 2004, c. 368, § 32, eff. Nov. 1, 2004. Renumbered from § 15.1 of Title 76 by Laws 2004, c. 368, § 67, eff. Nov. 1, 2004.

§2-16-72. Expansion of statewide fire protection program - Support and operation of fire departments and fire districts.

The Department of Agriculture is directed to expand the present statewide fire protection program and is authorized to acquire federal excess property for the support and operation of fire departments and fire districts.

Added by Laws 1982, c. 347, § 8, emerg. eff. June 2, 1982. Amended by Laws 2001, c. 113, § 52, emerg. eff. April 18, 2001. Renumbered from § 1301-316 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-73. Tamarix spp.

The Oklahoma Department of Agriculture is the designated agency for the research and control of the plant species Tamarix spp.

Added by Laws 2001, c. 113, § 53, emerg. eff. April 18, 2001.

§2-16-74. Federal excess property - Fire services.

The Oklahoma Department of Agriculture is the designated agency for the receipt and distribution of federal excess property for volunteer, paid, or combined departments that provide fire services. Added by Laws 2001, c. 113, § 54, emerg. eff. April 18, 2001.

§2-16-81. Volunteer Firefighter Employer Contribution Payment Revolving Fund.

There is created in the State Treasury a revolving fund for the Oklahoma Department of Agriculture to be designated the "Volunteer Firefighter Employer Contribution Payment Revolving Fund". The revolving fund shall be subject to legislative appropriation and shall consist of all monies transferred to the fund and any other monies designated for deposit to this revolving fund pursuant to law. Added by Laws 1998, c. 393, § 1, eff. Sept. 1, 1998. Amended by Laws 2001, c. 113, § 55, emerg. eff. April 18, 2001. Renumbered from § 1301-501 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-82. Transfer of payments to Oklahoma Firefighters Pension and Retirement System.

A. The Oklahoma Firefighters Pension and Retirement System shall determine the number of persons who are eligible members of the Oklahoma Firefighters Pension and Retirement System pursuant to the provisions of subsection D of Section 351 of Title 19 of the Oklahoma Statutes.

B. For each person who has become a member as described by subsection A of this section, the Oklahoma Firefighters Pension and Retirement System shall provide invoice documentation to the State Department of Agriculture. Upon adequate documentation of membership in the Oklahoma Firefighters Pension and Retirement System pursuant to the provisions of subsection D of Section 351 of Title 19 of the Oklahoma Statutes, the State Department of Agriculture shall make a transfer payment from the Volunteer Firefighter Employer Contribution Payment Revolving Fund to the Oklahoma Firefighters Pension and Retirement System by May 31, 1999, and May 31 of every year thereafter. The amount transferred shall equal the sum of Sixty Dollars (\$60.00) multiplied by the number of members as certified by the System to the Department.

Added by Laws 1998, c. 393, § 3, eff. Sept. 1, 1998. Amended by Laws 1999, c. 231, § 4, emerg. eff. May 26, 1999. Renumbered from § 1301-502 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-16-83. Rural Fire Equipment Grant Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Agriculture, Food, and Forestry to be designated the "Rural Fire Equipment Grant Revolving Fund". The fund

shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Department of Agriculture, Food, and Forestry and designated for deposit thereto. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Department of Agriculture, Food, and Forestry for the purpose of purchasing and repairing equipment used by rural fire departments for firefighting efforts. The Oklahoma Department of Agriculture, Food, and Forestry shall work with the Rural Fire Coordinators to establish suitable criteria for application and approval of grants awarded to rural fire departments from said fund. Priority of grants awarded from said fund shall be given to rural fire departments which suffered damaged equipment from wildfire suppression efforts related to drought-related fires and fire control. The activities associated with the duties of said fund shall be known as the "Rural Fire Equipment Grant Program". Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2006, c. 17 § 3, emerg. eff. April 4, 2006. Amended by Laws 2012, c. 304, § 13.

NOTE: Codified pursuant to State of Oklahoma's request.

§2-17-1. Title of act.

This act shall be known and may be cited as the "Cooperative Marketing Association Act".

Added by Laws 1937, p. 260, § 1. Amended by Laws 2001, c. 38, § 1, eff. Nov. 1, 2001. Renumbered from § 361 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-17-2. Declaration of legislative intent.

The purpose of the Cooperative Marketing Association Act is to promote, foster, and encourage the intelligent handling, processing, and orderly marketing of agricultural products and the organization and incorporation of cooperative marketing associations of agricultural producers. It is the declared policy of this state that the Cooperative Marketing Association Act be liberally construed.

Added by Laws 1937, p. 260, § 2. Amended by Laws 2001, c. 38, § 2, eff. Nov. 1, 2001. Renumbered from § 361a of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-17-3. Definitions.

A. As used in the Cooperative Marketing Association Act:

1. "Agricultural products" includes horticultural, viticultural, nut, dairy, livestock, poultry, bee, and any other farm products;

2. "Member" means, in addition to those admitted to membership in an association without capital stock, holders of common stock in associations organized with capital stock;

3. "Association" means any corporation organized pursuant to the Cooperative Marketing Association Act or any similar corporation organized under any general or special act of this or any other state as a cooperative association, for the mutual benefit of its members, as agricultural producers, in which the return on the stock or membership capital is limited to an amount not to exceed eight percent (8%) per annum, and which during any fiscal year does not deal with nonmembers' products to an amount greater in value than members' products; and

4. "Person" includes individuals, partnerships, firms, corporations, associations, trusts, estates, limited liability companies and any other legal entities recognized to do business in Oklahoma.

B. Associations organized pursuant to the Cooperative Marketing Association Act shall be deemed nonprofit, inasmuch as they are not organized to make profit for themselves, nor for their members, but only for their members as producers or users of products purchased. Added by Laws 1937, p. 261, § 3. Amended by Laws 2001, c. 38, § 3, eff. Nov. 1, 2001. Renumbered from § 361b of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-17-4. Persons who may organize associations.

Five or more natural persons of full age, engaged in the production of agricultural products either as tenants or landlords, who are residents of this state or any other, or two or more cooperative associations, organized under the laws of this state or any other, may form a nonprofit cooperative association with or without capital stock, pursuant to the provisions of the Cooperative Marketing Association Act.

Added by Laws 1937, p. 261, § 4. Amended by Laws 2001, c. 38, § 4, eff. Nov. 1, 2001. Renumbered from § 361c of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-17-5. Purposes and objects for which associations may be organized.

An association may be organized pursuant to the Cooperative Marketing Association Act to engage in any activity in connection with:

1. The marketing or selling of agricultural products;
2. The harvesting, preserving, drying, processing, blending, canning, packing, grading, storing, warehousing, handling, shipping, or utilizing of agricultural products;
3. The manufacturing, marketing, selling or supplying of the byproducts thereof;

4. The manufacturing, selling, or supplying of machinery, equipment, feed, fertilizer, seeds, or buying and selling oil, gasoline, or other supplies;

5. The financing of any of the enumerated activities specified by this section;

6. The performing or furnishing business or educational services on a cooperative basis for those engaged in agriculture as bona fide producers of agricultural products; or

7. Any one or more of the activities specified in this section. Added by Laws 1937, p. 261, § 5. Amended by Laws 2001, c. 38, § 5, eff. Nov. 1, 2001. Renumbered from § 361d of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-17-6. General powers.

Each association incorporated pursuant to the Cooperative Marketing Association Act shall have the power to:

1. Act as an agency for or subsidiary of or to assist cooperative associations formed pursuant to the Cooperative Marketing Association Act or similar acts in any of the activities authorized in Section 17-5 of this title and to act as a holding corporation of the properties of the associations;

2. Make all necessary and proper contracts and agreements with any other association formed in this or any other state, or in connection with any other association in this or any other state, or unite in employing and using, or separately to employ and use the same methods, means, and agencies which may be used by another association for carrying on and conducting the respective businesses of the associations;

3. Act as the agent or representative of any member or members in any lawful activity;

4. Make loans or advances to members or producer patrons or to the members of an association which is itself a member;

5. Accept any kind, form, or type of obligation or security, therefore to purchase, endorse, discount, or sell any note, draft, bill of exchange, debenture, bill of sale, mortgage, or other obligations acquired by it, the proceeds of which have been advanced or used in the first instance for any of the purposes provided for in the Cooperative Marketing Association Act; discount for or purchase from any association, organized under the laws of any state with or without its endorsement, any note, draft, bill of exchange, debenture, bill of sale, mortgage, or other obligation the proceeds of which are advanced or used in the first instance for carrying on any cooperative activity authorized pursuant to the Cooperative Marketing Association Act and to dispose of same with or without endorsement. An association organized pursuant to the Cooperative Marketing Association Act and exercising any of the powers provided in this paragraph shall not engage in the business of banking;

6. Establish and accumulate reserves including a permanent surplus fund as an addition to capital; invest the reserves either directly or by means of subsidiary or affiliated associations or other corporations in real estate or other property for carrying out the purpose of the association, provided no real property investments shall be made except for the purpose of leasing or acquiring title to real property necessary for use in the conduct of the primary business of the association, or the reserves may be deposited or invested in securities as the bylaws may provide;

7. Purchase or acquire, hold, own, and exercise all rights of ownership in, and to sell, transfer, pledge or guarantee the payment of dividends or interest on, or the retirement or redemption of, shares of capital stock, bonds, or other obligations of any corporation or association, engaged in any directly or indirectly related activity, or in the production, warehousing, handling, or marketing of any of the products handled by the association;

8. Buy, hold, and exercise all privileges of ownership over real or personal property, as may be necessary or convenient for the conduct and operation of any of the business of the association, or incidental thereto;

9. Borrow money from any source without limitation as to amount of corporate indebtedness or liability, with authority to give any form of obligation or security therefor;

10. Establish and secure, own and develop patents, trademarks, and copyrights;

11. Deal in products, handle machinery, equipment, or supplies, or perform services for or on behalf of nonmembers to an amount not greater in value during any fiscal year than are dealt in, handled, or performed by it for, or on behalf of its members during the same period;

12. Do each and everything necessary, suitable, or proper for the accomplishment of any one of the purposes, or the attainment of any one or more of the subjects enumerated and authorized by the Cooperative Marketing Association Act, or conducive to or expedient for the interest or benefit of the association, and to contract accordingly; and

13. Exercise and possess all powers, rights, and privileges necessary or incidental to the purposes for which the association is organized, or the activities in which it is engaged; and any other rights, powers, and privileges granted by the laws of this state to ordinary business corporations, except as are inconsistent with the express provisions of the Cooperative Marketing Association Act. Added by Laws 1937, p. 261, § 6. Amended by Laws 2001, c. 38, § 6, eff. Nov. 1, 2001. Renumbered from § 361e of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-17-7. Articles of Incorporation - Contents - Execution, acknowledgment and filing - Evidence.

A. The incorporators of an association to be formed pursuant to the Cooperative Marketing Association Act must prepare and file Articles of Incorporation setting forth:

1. The name of the association which may or may not include the word "cooperative";

2. Its purposes;

3. Its duration;

4. Its principal place of business in the state;

5. The name and post office address of each of the incorporators;

6. The names and addresses of those who are to serve as incorporating directors for the first term, or until the election and qualifications of their successors;

7. If organized without capital stock, whether the property rights and interests of each member are to be equal or unequal. If unequal, the Articles of Incorporation shall include the general rule applicable to all members by which the property rights and interests respectively of each member shall be determined and provision for the admission of new members who shall share in the property of the association in accordance with the general rule; and

8. If organized with capital stock, the amount of the stock and the number of shares into which the capital stock is to be divided; whether all or part of the capital stock shall have par value, and if so, the par value thereof. If there is to be more than one class of stock created, the Articles of Incorporation shall include a description of the different classes, the number of shares in each class, the relative rights, interests, and preferences each class shall represent, and the dividends, which may be cumulative, not exceeding eight percent (8%) per annum, to which each share shall be entitled.

B. The Articles of Incorporation may contain any provision consistent with law with respect to management, regulation, government, financing, indebtedness, membership, the establishment of voting districts, and the election of delegates for representative purposes, the issuance, retirement and transfer of its stock, if formed with capital stock, or any provision relative to the way or manner in which it shall operate with respect to its members, officers, or directors, and any other provisions relating to its affairs.

C. The Articles of Incorporation must be subscribed by the incorporators and acknowledged by one of them before an officer authorized by the law of this state to take and certify acknowledgments of deeds and conveyances and shall be filed with the Oklahoma Secretary of State. When filed, the Articles of Incorporation, or certified copies of the Articles of Incorporation,

shall be received in all courts of this state as prima facie evidence of the facts contained therein and of the due incorporation of the association.

Added by Laws 1937, p. 262, § 7. Amended by Laws 2001, c. 38, § 7, eff. Nov. 1, 2001. Renumbered from § 361f of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-17-8. Filing of Articles of Incorporation or amendments - Fees.

The Articles of Incorporation shall be filed in triplicate with the Secretary of State. For filing the Articles of Incorporation, an association shall pay to the Secretary of State a fee of Twenty-five Dollars (\$25.00), and for filing an amendment to the Articles, a fee of Fifteen Dollars (\$15.00).

Added by Laws 1937, p. 263, § 8. Amended by Laws 1984, c. 229, § 4, operative July 1, 1984; Laws 2001, c. 38, § 8, eff. Nov. 1, 2001. Renumbered from § 361g of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-17-9. Amendment of Articles of Incorporation - Filing.

A. The Articles of Incorporation may be amended at any regular meeting or any special meeting called for that purpose. An amendment must first be approved by two-thirds (2/3) of the directors, and then adopted by a two-thirds (2/3) vote of all members present at the meeting.

B. Amendments to the Articles of Incorporation when adopted shall be filed in the same manner as provided for the filing of the original Articles.

Added by Laws 1937, p. 263, § 9. Amended by Laws 2001, c. 38, § 9, eff. Nov. 1, 2001. Renumbered from § 361h of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-17-10. Bylaws - Adoption - Amendment of bylaws - Subjects which may be regulated.

A. Each association incorporated pursuant to the Cooperative Marketing Association Act shall adopt bylaws consistent with the Cooperative Marketing Association Act within thirty (30) days after its incorporation. A majority of the members voting on the bylaws is necessary to adopt the bylaws. Each shareholder or member shall be entitled to one vote, and no more, irrespective of the number of shares owned or patronage.

B. The bylaws shall provide for their amendment by the members and the method by which amendments may be adopted. The bylaws may include, but are not limited to:

1. The time, place, and manner of calling and conducting its meetings, which meetings, and the meetings of its directors, may be held either in or outside the state;

2. The number of members constituting a quorum;

3. The right of members to vote in person, by proxy, or by mail at general or special meetings; and the conditions, manner, form, and effects of these votes;

4. The number of directors constituting a quorum;

5. The number, qualifications, compensation, duties, and term of office of directors and officers; the time of their election and the mode and manner of giving notice thereof;

6. Penalties for violations of bylaws;

7. The amount of entrance, organization, and membership fees, if any; the manner and method of collection of the fees, and the purposes for which the fees may be used;

8. The amount which each member shall be required to pay annually or from time to time, if at all, to carry on the business of the association; the charge, if any, to be paid by each member for services rendered by the association to such member and the time of payment and the manner of collection; and marketing contract between the association and its members which every member may be required to sign; and

9. The number, qualification, and voting rights of members of the association and the conditions precedent to membership; the method, time, and manner of permitting members to withdraw or to transfer their stock; the manner of assignment and transfer of the interest of members; the mode, manner, and effect of the expulsion of a member; the manner of determining the value of a member's interest and provision for its purchase by the association upon the death or withdrawal of a member or upon the expulsion of a member or forfeiture of membership.

Added by Laws 1937, p. 264, § 10. Amended by Laws 2001, c. 38, § 10, eff. Nov. 1, 2001. Renumbered from § 361i of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-17-11. Membership in associations - Termination and transfer of memberships - Liability for debts.

A. Under the terms and conditions prescribed in the bylaws adopted by it, an association may admit as members, or issue common stock to only cooperative associations and/or persons engaged in the production of agricultural products to be handled by or through the association, including the lessees and tenants of land used for the production of agricultural products and any lessors and landlords who receive as rent all or part of the crop raised on the leased premises.

B. An association organized pursuant to the Cooperative Marketing Association Act may become a member or stockholder of any other cooperative association organized in this or any other state.

C. A member shall lose membership and voting rights if the member ceases to belong to the class of persons eligible for membership pursuant to this section, however, such member shall

remain subject to any liability already incurred by such member as a member of the association. Upon the death of a member and the deceased member's estate ceasing to belong to the class of persons eligible for membership pursuant to this section, the deceased member's estate shall be entitled to receive from the association, within three (3) years after the latter of the member's death or the member ceasing to be a member, the value of the membership interest in the association subject to the conclusive appraisal by the board of directors. If the association approves the member's designation of a transferee of the membership interest, the association shall be under no obligation to pay the transferor the value of the interest.

D. Except for debts lawfully contracted between a member and the association, no member shall be liable for the debts of the association to any amount exceeding the sum remaining unpaid on the subscription to membership of the member.

Added by Laws 1937, p. 264, § 11. Amended by Laws 2001, c. 38, § 11, eff. Nov. 1, 2001. Renumbered from § 361j of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-17-12. Certificates of membership or stock certificates - Transfer - Preferred stock.

A. When a member of an association has paid the membership fee or stock subscription in full, the association shall issue a certificate of membership or a stock certificate to the member. The association may establish a policy of maintaining physical possession of the original certificates.

B. No association shall issue membership certificates or stock until they have been fully paid for, but an association in its bylaws may admit a member and allow the member to vote and hold office as soon as twenty percent (20%) of the membership fee or stock certificate has been paid.

C. Ownership of common stock, certificates of indebtedness, or membership certificates may be transferred by a member only to other associations or to persons engaged in the production of agricultural products, and who are eligible to hold same. The transfer must be approved by the board of directors before it is binding on the association.

D. 1. An association may issue and sell preferred stock to members or nonmembers. Preferred stock may be redeemable or retirable by the association on terms and conditions as may be provided by the bylaws and printed on the stock certificate. Preferred stockholders shall not be entitled to vote.

2. Whenever an association organized pursuant to the Cooperative Marketing Association Act with preferred stock shall purchase the stock or any interest in any property of any person it may discharge the obligation so incurred wholly or in part by exchanging for the acquired interest shares of its preferred stock to an amount which

would equal the fair market value of the stock or interest so purchased as determined by the board of directors. Added by Laws 1937, p. 265, § 12. Amended by Laws 2001, c. 38, § 12, eff. Nov. 1, 2001. Renumbered from § 361k of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-17-13. Financial statements - Dividends and earnings - Interest on membership capital or stock - Surplus or reserve fund - Undistributed balances.

A. At the time of each dividend apportionment of earnings and at least once in every year, the directors shall cause to be prepared a financial statement showing:

1. The financial condition of the corporation at the end of the period to which such dividend or apportionment relates, in a form as shall fully exhibit the assets and liabilities of the corporation; and

2. Its earnings, purchases and sales, expenses and outlays, for the period covered by the dividend or apportionment, in the manner that a good understanding of the condition of the corporation may be obtained from the financial statement.

The directors shall cause the financial statement to be kept on file with the secretary, or such other officer as the directors may designate. The financial statement may be examined by any member of the corporation at all reasonable times.

B. The directors, subject to the revision by the members or stockholders, at any general or special meeting lawfully called shall apportion the net earnings from time to time at least once in each year.

C. An association shall limit the interest it pays on membership capital or stock to an amount not greater than eight percent (8%) per annum. The apportionment shall not be made until not less than ten percent (10%) of any undistributed balance accruing since the last apportionment, has been set aside in a surplus or reserve fund unless such surplus or reserve funds equal at least one hundred percent (100%) of the paid up membership fees or capital stock.

D. 1. Undistributed balances from any source, in excess of additions to reserves and surplus, shall be distributed on the basis of patronage, that is according to the amount or value, as the association may decide, of the products sold to or through, and/or purchased from or through, the association by its patrons.

2. The distribution of the balances may be restricted to members or be made at the same rate for members and nonmembers.

3. The bylaws may provide that any distribution to a nonmember, eligible for membership may be credited to a nonmember until the amount equals the value of a membership certificate or a share of the association's common stock.

4. A distribution credited to the account of a nonmember shall revert to the reserve fund to be used for educational purposes if, after two (2) years, the amount is less than the value of a membership certificate or a share of common stock, or in case the person does not accept and exercise membership privileges. Added by Laws 1937, p. 265, § 13. Amended by Laws 2001, c. 38, § 13, eff. Nov. 1, 2001. Renumbered from § 361 l of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-17-14. Regular meetings - Special meetings - Notice.

A. 1. One or more regular meetings shall be held annually in such places as the bylaws may stipulate.

2. The board of directors may call a special meeting at any time.

3. If ten percent (10%) of the members file a petition stating the specific business to be brought before the association and demand a special meeting at any time, a meeting must be called by the directors.

B. Notice of all meetings, together with a statement of the purposes, shall be mailed to each member at least ten (10) days prior to the meeting. If provided by the bylaws, all notices may be given by publication in a newspaper, or other periodical of general circulation among the members.

Added by Laws 1937, p. 266, § 14. Amended by Laws 2001, c. 38, § 14, eff. Nov. 1, 2001. Renumbered from § 361m of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-17-15. Board of directors.

A. The association shall be managed by a board of not less than five or more than twenty-one directors elected by the members of the association. The directors shall be qualified as may be provided for in the Articles of Incorporation or bylaws.

B. All of the directors shall be members of the association or officers, directors, or members of member associations.

Added by Laws 1937, p. 266, § 15. Amended by Laws 2001, c. 38, § 15, eff. Nov. 1, 2001. Renumbered from § 361n of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-17-16. Officers.

A. The officers of each association established pursuant to the Cooperative Marketing Association Act shall be a president, one or more vice-presidents, a secretary and a treasurer and other officers as may be authorized in the bylaws.

B. The president and at least one of the vice-presidents must be directors of the association, unless the bylaws of the association provide to the contrary.

C. The office of secretary and treasurer may be combined.

D. Officers shall be elected by the directors in the manner and for terms as provided by the bylaws.

Added by Laws 1937, p. 266, § 16. Amended by Laws 1986, c. 36, § 1, emerg. eff. March 24, 1986; Laws 2001, c. 38, § 16, eff. Nov. 1, 2001. Renumbered from § 3610 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-17-17. Contracts as condition of membership - Title to products - Withdrawal of members - Filing of contracts - Fees - Termination certificate.

A. 1. Members may be required to execute contracts as a condition of admission to the association, whereby the members agree to:

- a. patronize the facilities created by the association,
- b. sell all or a specified part of their products to or through, or
- c. buy all or a specified part of their supplies from or through, the association or any facilities created by it.

2. If the members in the association contract a sale to or through the association the fact that for certain purposes the relation between the association and its members may be one of agency shall not prevent the passage from the member to the association of absolute and exclusive title to the products which are the subject matter of the contract. The title shall pass to the association upon delivery of the product or at any other specified time which may be expressly and distinctly agreed upon in the contract, subject to previously existing liens.

3. In the case of contracts with members who are natural persons, if the period of the contract exceeds three (3) years, the contracts executed thereunder shall specify a reasonable period in each year during which the member by giving to the association reasonable notice as may be prescribed in the contract may withdraw and be released from the obligations under the contract, subject to liability already incurred by the member as a member of the association.

4. In the absence of a provision for notice or withdrawal in the contract a member who is a natural person may withdraw at any time after three (3) years subject to liabilities already incurred.

B. 1. The association may cause the original of a contract or an authenticated copy of the contract to be filed in the office of the county clerk of the county in which the products described in the contract, or any part of the contract, are or will at some future time be situated. The contracts shall describe the property or services affected, the manner in which they are affected, and the time for which they are affected and shall state the names and residences of the parties to the contract.

2. The fees for filing the contracts shall be twenty-five cents (\$0.25) for each contract, except that when an association files more than one contract in a county which are substantially the same except for the signature of one of the parties the filing fee shall be twenty-five cents (\$0.25) for the first contract and five cents (\$0.05) for each similar contract.

C. Whenever a contract terminates, the association shall on demand give to the member a certificate to that effect. The certificate may be filed with the county clerk. The county clerk shall be entitled to the same filing fees pursuant to this subsection as in the case of chattel mortgages.

Added by Laws 1937, p. 266, § 17. Amended by Laws 2001, c. 38, § 17, eff. Nov. 1, 2001. Renumbered from § 361p of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-17-18. Election of existing associations to come under act.

A. By complying with the provisions of this section, any association, organized pursuant to any previously existing statutes, may elect, by vote of its members as provided in its Articles of Incorporation and bylaws for the amendment of its Articles of Incorporation and bylaws, to be brought under the provisions of the Cooperative Marketing Association Act.

B. A statement, signed and sworn to by its directors to the effect that the corporation or association has elected to adopt the benefits and be bound by the provisions of the Cooperative Marketing Association Act and has duly authorized all changes accordingly, shall be filed as required for the filing of an amendment to the Articles of Incorporation.

C. The same fee shall be paid for filing as for the filing pursuant to this section of an amendment to the Articles of Incorporation.

Added by Laws 1937, p. 267, § 18. Amended by Laws 2001, c. 38, § 18, eff. Nov. 1, 2001. Renumbered from § 361q of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-17-19. Inducing or attempting to induce breach of marketing contract - Penalty.

A. Except as otherwise provided by this section, any person or corporation:

1. Whose officers or employees knowingly induce, or attempt to induce any member or stockholder of an association organized pursuant to the Cooperative Marketing Association Act or organized pursuant to similar statutes of other states and operating in this state under due authority, to breach its marketing contract with the association; or

2. Who maliciously and knowingly spread false reports about the finances, management, or activity of an association, organized pursuant to the Cooperative Marketing Association Act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not less than One Hundred Dollars (\$100.00) and not more than One Thousand Dollars (\$1,000.00) for each such offense.

B. Any member may present anything relative to the affairs of the association at any annual or special meeting of the members, without being liable under this section.

Added by Laws 1937, p. 267, § 19. Amended by Laws 2001, c. 38, § 19, eff. Nov. 1, 2001. Renumbered from § 361r of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-17-20. Liability for inducing breach of marketing contracts - Injunctions.

A. Any person who knowingly solicits or persuades any member of any association organized or operating in this state under due authority to breach the marketing contract of such member with the association by accepting or receiving the member's products for sale or for auction or for display for sale, or for processing or handling, contrary to the terms of any agreement of which the person or any active officer or manager of the corporation had knowledge or notice, shall be liable, to the association aggrieved in a civil action for any actual damages sustained by reason thereof.

B. The association may, upon proper application in a civil action, obtain a temporary injunction against any violation of the provisions of the Cooperative Marketing Association Act, which may be made permanent upon proper proof.

Added by Laws 1937, p. 267, § 20. Amended by Laws 1955, p. 97, § 1; Laws 1957, p. 10, § 1; Laws 2001, c. 38, § 20, eff. Nov. 1, 2001. Renumbered from § 361s of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-17-21. Exception to laws prohibiting conspiracies, combinations in restraint of trade or monopolies - Crop, marketing and statistical information - Production and consumption advice.

A. Any association organized pursuant to the Cooperative Marketing Association Act and complying with the terms thereof shall be deemed not to:

1. Be a conspiracy nor a combination in restraint of trade nor an illegal monopoly;

2. Be an attempt to lessen competition or to fix prices arbitrarily; or

3. Create a combination or pool in violation of any law of this state.

B. The contracts and agreements between the association and its members and any agreements authorized in the Cooperative Marketing Association Act shall be considered not to be:

1. Illegal;
2. In restraint of trade;
3. A part of a conspiracy or combination to accomplish an improper or illegal purpose; or
4. Contrary to the provisions of any statute enacted against pooling or combinations.

C. An association organized pursuant to the Cooperative Marketing Association Act may acquire, exchange, interpret, and disseminate to its members and others, past, present, and prospective, crop, market, statistical, economic, and other similar information either directly or through an agent created or selected by it or by other associations acting in conjunction with it.

D. An association organized pursuant to the Cooperative Marketing Association Act may advise its members in respect to the adjustment of their current and prospective production consumption, selling prices and existing or potential surpluses to the end that every market may be served from the most convenient productive areas under a program of orderly marketing that will assure supplies without undue enhancement of prices or the accumulation of undue surpluses.

Added by Laws 1937, p. 267, § 21. Amended by Laws 2001, c. 38, § 21, eff. Nov. 1, 2001. Renumbered from § 361t of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-17-22. Quo warranto proceedings.

The right of an association claiming to be organized and incorporated and carrying on its business pursuant to the Cooperative Marketing Association Act to do and to continue its business, may be inquired into by quo warranto.

Added by Laws 1937, p. 268, § 22. Amended by Laws 2001, c. 38, § 22, eff. Nov. 1, 2001. Renumbered from § 361u of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-17-23. Licensing and taxation.

Each association formed pursuant to the provisions of the Cooperative Marketing Association Act shall be subject to and comply with the laws relating to the licensing and tax of other like corporations or associations.

Added by Laws 1937, p. 268, § 23. Amended by Laws 2001, c. 38, § 23, eff. Nov. 1, 2001. Renumbered from § 361v of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-17-24. Application of general business corporation laws.

The provisions of the Oklahoma General Corporation Act and all powers and rights pursuant to the general business corporation laws shall apply to the associations organized pursuant to the provisions of the Cooperative Marketing Association Act, except where such provisions are inconsistent with the express provisions of the Cooperative Marketing Association Act. The provisions of this act shall also apply to similar associations organized under the laws of other jurisdictions and doing business or seeking to do business in this state to the extent that this act applies to foreign corporations doing business or seeking to do business in this state. Added by Laws 1937, p. 268, § 24, emerg. eff. May 22, 1937. Renumbered from § 361w of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001. Amended by Laws 2001, c. 405, § 1, eff. Nov. 1, 2001; Laws 2002, c. 22, § 2, emerg. eff. March 8, 2002. NOTE: Laws 2001, c. 38, § 24 repealed by Laws 2002, c. 22, § 34, emerg. eff. March 8, 2002.

§2-18-10. Oklahoma Sheep and Wool Commission - Administrative expense limit.

The Oklahoma Sheep and Wool Commission shall not expend more than thirty-five percent (35%) of the funds it receives for administrative expenses.

Added by Laws 1987, c. 208, § 8, operative July 1, 1987. Amended by Laws 1987, c. 236, § 50, emerg. eff. July 20, 1987; Laws 2001, c. 146, § 79, emerg. eff. April 30, 2001. Renumbered from § 1604 of this title by Laws 2001, c. 146, § 254, emerg. eff. April 30, 2001. Amended by Laws 2016, c. 269, § 1, eff. Nov. 1, 2016.

§2-18-30. Short title.

This act shall be known and may be cited as the "Oklahoma Beef Improvement and Market Development Act".

Added by Laws 2004, c. 34, § 1, eff. Nov. 1, 2004.

§2-18-31. Legislative intent.

A. It is the intent of the Legislature to:

1. Create the Oklahoma Beef Council;
2. Promote the growth of the cattle industry in Oklahoma;
3. Assure an adequate and wholesome food supply;
4. Provide for the general economic welfare of producers and consumers of beef; and
5. Provide the beef cattle industry with the authority to establish a self-financed, self-governed program to develop, maintain, and expand the state, national, and foreign markets for beef and beef products produced, processed, or manufactured in this state.

B. The promotion, marketing, research, and educational efforts concerning beef and beef products, pursuant to the Oklahoma Beef

Improvement and Market Development Act, shall utilize existing cattle industry infrastructure to the extent possible.

Added by Laws 2004, c. 34, § 2, eff. Nov. 1, 2004.

§2-18-32. Definitions.

As used in the Oklahoma Beef Improvement and Market Development Act:

1. "Beef" and "beef products" mean the meat intended for human consumption from any cattle, including, but not limited to, veal;

2. "Cattle" means all bovine animals, regardless of age;

3. "Council" means the Oklahoma Beef Council established under the Oklahoma Beef Improvement and Market Development Act to administer and govern the program;

4. "Market agent" means any person or entity who sells, offers for sale, markets, distributes, trades, or processes cattle purchased or acquired from a producer, or marketed on behalf of a producer, and includes, but is not limited to, cattle feeders and meatpacking firms and their agents that purchase or consign to purchase cattle;

5. "Person" includes individuals, partnerships, firms, corporations, associations, trusts, estates, limited liability companies and any other legal entities recognized to do business in Oklahoma; and

6. "Producer" means a person that owned or sold cattle in the previous calendar year or presently owns cattle.

Added by Laws 2004, c. 34, § 3, eff. Nov. 1, 2004.

§2-18-33. Board of the Oklahoma Beef Council.

A. The Board of the Oklahoma Beef Council shall consist of nine (9) members and shall be composed as follows:

1. The Governor shall appoint three members as follows:

a. one member representing a general farm organization which represents more than 150,000 members in the state,

b. one member representing the dairy producers in the state, and

c. one member of an Oklahoma association representing livestock auction markets and livestock dealers in which the member's primary responsibility is the collection and remittance of assessment funds;

2. The President Pro Tempore of the Senate shall appoint three members as follows:

a. one member from a women's auxiliary group of a general farm organization representing more than 150,000 members in the state,

b. one member of a statewide women's beef cattle association, incorporated in Oklahoma, whose primary purpose is beef product promotion and education, and

- c. one member representing a general farm organization which represents more than 100,000 members in the state;

3. The Speaker of the House of Representatives shall appoint three members as follows:

- a. one member of an Oklahoma association representing livestock auction markets and livestock dealers,
- b. one member of a statewide beef cattle producer-owned association, incorporated in Oklahoma, comprised of more than 5,000 Oklahoma-based producer members organization representing cattle producers in the state, and
- c. one member from an women's auxiliary group of a general farm organization representing more than 100,000 members in the state;

B. The initial appointments for each gubernatorial and legislative member shall be for progressive terms of one (1) through three (3) years; subsequent appointments shall be for three-year terms. Members shall continue to serve until their successors are appointed. Any vacancy shall be filled in the same manner as the original appointments. No member shall serve more than two consecutive terms.

Added by Laws 2004, c. 34, § 4, eff. Nov. 1, 2004.

§2-18-34. Oklahoma Beef Council.

A. There is hereby created, to continue until July 1, 2010, in accordance with the provisions of the Oklahoma Sunset Law, the Oklahoma Beef Council.

B. The Oklahoma Beef Council shall:

1. Promote the sale and use of beef and beef products, support national beef promotion, research, education, and other consumer marketing activities related to beef and cattle production, and otherwise support consumer market development and promotion efforts on a national and international scale;

2. Develop new uses and markets for beef and beef products;

3. Develop and improve methods of distributing beef and beef products to the consumer;

4. Develop methods of improving the quality and safety of beef and beef products for consumer benefit;

5. Inform and educate the public of the nutritive, safety, and economic values of beef and beef products;

6. Function in a liaison capacity with the beef and other food industries of the state and elsewhere in matters that would increase efficiencies ultimately benefiting the consumer and the industry;

7. Receive and disburse funds for use in administering and implementing the provisions and intent of the Oklahoma Beef Improvement and Market Development Act;

8. Annually elect a chairperson from among its members who may be reelected for not more than one one-year term;

9. Meet regularly, but in no case shall meet less than one time per calendar quarter, at any other times as called by the Chair, or upon request by three or more members of the Council;

10. Maintain a permanent record of all business proceedings;

11. Maintain a permanent and detailed record of all financial dealings;

12. Prepare periodic reports and an annual report of all activities for each fiscal year, for review by the beef cattle industry of the state. The annual report shall be filed with the Chair of the Senate Agriculture and Rural Development Committee or successor committee, the Chair of the House Agriculture Committee or successor committee, the Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry, and the Governor;

13. Prepare periodic reports and an annual accounting for each fiscal year of all receipts and expenditures for review of the beef cattle industry of the state and provide for annual audits conducted by a certified public accounting firm;

14. Adopt and promulgate rules pursuant to the Administrative Procedures Act, with the assistance of the Oklahoma Department of Agriculture, Food, and Forestry if requested by the Council, for implementation of the Oklahoma Beef Improvement and Market Development Act;

15. Maintain an office at a specific location in Oklahoma that is accessible to beef producers and conducive to operating the programs of the Council; and

16. Have such other powers and duties to implement the Oklahoma Beef Improvement and Market Development Act.

C. The Council may:

1. Conduct or contract for scientific research with any accredited university, college, or similar institution and enter into other contracts or agreements that aid in carrying out the purposes of the Oklahoma Beef Improvement and Market Development Act, including, but not limited to, contracts for the purchase or acquisition of facilities, advertising, or equipment;

2. Disseminate reliable information benefiting consumers and the beef cattle industry on subjects including, but not limited to, purchase, identification, care, storage, handling, cookery, preparation, serving size or portion, and nutritional value of beef and beef products;

3. Provide information to various governmental bodies, upon request, on subjects of concern to the beef industry and act jointly or in cooperation with the state or federal government, and agencies thereof, in the development or administration of programs deemed by the Council as consistent with the objectives of the Oklahoma Beef Improvement and Market Development Act;

4. Cause any civil action to be filed to enforce the provisions of the Oklahoma Beef Improvement and Market Development Act;

5. Appoint advisory groups composed of representatives from organizations, institutions, governments, or business related to or interested in the welfare of the beef industry and the consuming public;

6. Employ an Executive Director and employees of the Council and prescribe their duties and fix their compensation and terms of employment;

7. Cooperate with any local, state, regional or nationwide organization or agency engaged in work or activities consistent with the objectives of the Oklahoma Beef Improvement and Market Development Act; and

8. Cause any duly authorized agent or representative of the Council to enter upon the premises of any market agent with proper warrants and examine or require examination of only those books, papers, and records associated in any way with payments of assessments or enforcement of the Oklahoma Beef Improvement and Market Development Act. It shall be incumbent upon the Council to make appropriate arrangements with the persons being examined to ensure that an orderly examination is made that does not impede on the person's normal course of business.

D. Members of the Council shall not be individually liable for acts of the Council when acting within the scope of the Council's powers and in the manner prescribed by the laws of the state; Added by Laws 2004, c. 34, § 5, eff. Nov. 1, 2004.

§2-18-35. Duties of members of the Oklahoma Beef Council.

The members of the Oklahoma Beef Council shall:

1. Be actively engaged in beef production during the year prior to appointment and continuing throughout the term;

2. Have not been found in violation of the Oklahoma Beef Improvement and Market Development Act pursuant to an administrative hearing or court proceeding; and

3. Have not requested a refund within the preceding three (3) years of being appointed.

Added by Laws 2004, c. 34, § 6, eff. Nov. 1, 2004.

§2-18-36. Assessment of fee - Exemption.

A. The Oklahoma Beef Council may levy on each producer selling cattle within or from this state an assessment of up to One Dollar (\$1.00) per head on cattle sold. The state assessment shall be determined by the Council through the promulgation of rules established pursuant to the Administrative Procedures Act. In no event shall the combined federal and state beef assessment exceed One Dollar (\$1.00).

B. The fee shall be assessed and imposed as follows:

1. Upon the cattle producer at the time of a sale by the producer. Except for a sale through a market agent, the assessment shall be collected and remitted by the producers to the Council; or

2. Every market agent doing business in the State of Oklahoma shall deduct from the gross receipts of the producer at the time of sale the assessment on all cattle sold in the state for the producer.

C. 1. The Council shall establish, by rule, the procedures for the collection and remittance of the assessment.

2. The amount of the assessment collected shall be clearly shown on the sales invoice or other document evidencing the transaction.

3. The producer and marketing agent shall forward all assessments collected by the producer or market agent, as appropriate, to the Council by the fifteenth of the month following the month of collection. The Council shall provide appropriate forms for the remittance of the assessment.

D. The Council shall maintain within its financial records a separate accounting of all monies received pursuant to the provisions of this section.

E. All monies deducted under the provisions of this section shall be considered as bona fide business expenses for the producer as provided for under the tax laws of this state.

F. The Council may adopt reciprocal agreements with other beef councils or similar organizations on monies collected by Oklahoma market agents on cattle from other states and on Oklahoma cattle sold at other states' markets.

G. A person may be exempted from payment of the assessment if that person:

1. Certifies that the person's only share in the proceeds of a sale of cattle is a sales commission, handling fee, or other service fee; or

2. Certifies that:

- a. the person acquired ownership of cattle only to facilitate the transfer of ownership of the cattle from the producer to a third party,
- b. the cattle were resold no later than ten (10) days from the date the person acquired ownership, and
- c. the assessment, if applicable, was levied upon the previous owner and collected and remitted, or will be remitted pursuant to the provisions of the Oklahoma Beef Improvement and Market Development Act.

Added by Laws 2004, c. 34, § 7, eff. Nov. 1, 2004.

§2-18-37. Enforcement actions - Injunctive relief.

A. The Council may institute any action necessary to enforce compliance with any provision of the Oklahoma Beef Improvement and Market Development Act and rules promulgated pursuant to the Oklahoma Beef Improvement and Market Development Act. In addition to any

other remedy provided by law, the Council may petition for injunctive relief.

B. 1. Any due and payable assessment required under the Oklahoma Beef Improvement and Market Development Act constitutes a personal debt of the person or marketing agent assessed.

2. In the event of failure of a person or marketing agent to remit any properly due assessment or sum, the Council in order to collect an assessment may bring an administrative action and may bring a civil action in district court against that person. If an action is brought in the district court, such action will be brought in the district court of any county in which the sale is conducted.

3. In addition to collection of the assessment, the Council may also collect a ten-percent-penalty assessment, the costs of enforcing the collection of the assessment, and any court costs.

4. The civil action in district court shall be tried and judgment rendered as in any other cause of action for debts due and payable. Any administrative hearing shall be conducted pursuant to the Administrative Procedures Act.

5. All assessments, penalty assessments, and enforcement costs recovered are due and payable to the Council.

Added by Laws 2004, c. 34, § 8, eff. Nov. 1, 2004.

§2-18-38. Refund - Collection action.

A. Any producer who has paid the assessment under the provisions of the Oklahoma Beef Improvement and Market Development Act shall be entitled to a refund upon a valid request to the Council.

B. The Council shall make available to all producers and marketing agents forms for refund requests.

C. Refund claims shall be submitted by the producer within forty-five (45) days of the payment of the assessment and shall include a signature, date of sale, place of sale, number of cattle, amount of assessment deducted, and proof of the payment of the deducted assessment.

D. 1. Upon verification of a valid refund request, the Council shall remit a refund to the producer within forty-five (45) days of the valid request.

2. In the event the Council fails to remit the valid requested refund as required by this subsection, the producer may bring a civil action against the Council in the district court of the county in which the office of the Council is located for collection of the refund, a ten-percent-penalty assessment, and all court costs.

3. The civil action shall be tried and judgment rendered as in any other cause of action for debts due and payable.

4. All assessments, penalty assessments, and enforcement costs recovered are due and payable to the producer.

E. If the Council has reasonable doubt that a refund claim is valid, it may withhold payment and take action as deemed necessary to determine its validity.

F. All requests for refunds shall only be initiated by the producer.

Added by Laws 2004, c. 34, § 9, eff. Nov. 1, 2004.

§2-18-39. Rules.

Within ninety (90) days of the effective date of this act, the Oklahoma Beef Council shall promulgate the necessary rules for the Council to carry out the intent and purposes of the Oklahoma Beef Improvement and Market Development Act.

Added by Laws 2004, c. 34, § 10, eff. Nov. 1, 2004.

§2-18-40. Exemption of Council from certain state laws.

The Oklahoma Beef Council shall not be subject to the:

1. Oklahoma Personnel Act; or

2. Competitive Bidding Act administered by the Office of Management and Enterprise Services.

Added by Laws 2004, c. 34, § 11, eff. Nov. 1, 2004. Amended by Laws 2012, c. 304, § 14.

§2-18-41. Act effective upon cessation of federal statute.

The Oklahoma Beef Improvement and Market Development Act shall become effective only upon the cessation or part thereof of the federal Beef Promotion and Research Act of 1985, 7 U.S.C., Sections 2901 through 2911, upon certification by the Oklahoma Commissioner of Agriculture.

Added by Laws 2004, c. 34, § 12, eff. Nov. 1, 2004.

§2-18-42. Oklahoma Beef Council Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Beef Council to be designated the "Oklahoma Beef Council Revolving Fund". The Fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all monies received by the Oklahoma Beef Council from assessments received and collected pursuant to the Oklahoma Beef Improvement and Market Development Act, donations, grants, contributions and gifts from any public or private source. The Council may expend funds as provided for by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2004, c. 34, § 13, eff. Nov. 1, 2004. Amended by Laws 2012, c. 304, § 15.

§2-18-43.1. Repealed by Laws 2013, c. 227, § 3, eff. Nov. 1, 2013.

§2-18-43.2. Repealed by Laws 2013, c. 227, § 3, eff. Nov. 1, 2013.

§2-18-43.3. Repealed by Laws 2013, c. 227, § 3, eff. Nov. 1, 2013.

§2-18-43.4. Repealed by Laws 2013, c. 227, § 3, eff. Nov. 1, 2013.

§2-18-50. Oklahoma Peanut Act.

Sections 18-50 through 18-62 of this title shall be known and may be cited as the "Oklahoma Peanut Act".

Added by Laws 1965, c. 349, § 1, emerg. eff. June 28, 1965. Amended by Laws 2001, c. 146, § 37, emerg. eff. April 30, 2001. Renumbered from § 1101 of this title by Laws 2001, c. 146, § 251, emerg. eff. April 30, 2001. Amended by Laws 2014, c. 1, § 26, eff. July 1, 2014; Laws 2015, c. 195, § 1, eff. Nov. 1, 2015.

§2-18-51. Definitions.

For the purpose of the Oklahoma Peanut Act:

1. "Commission" means the Oklahoma Peanut Commission;

2. "Grower" means any natural person engaged in growing peanuts;

3. "First purchaser" is any person, public or private corporation, association or partnership buying or otherwise acquiring after harvest the property in or to peanuts from a grower. A mortgagee, pledgee, lienor or other person, public or private, having a claim against the grower under a nonrecourse loan made against such peanuts after harvest thereof shall be deemed a purchaser. The term "first purchaser" shall not include a harvesting or threshing lienee; and

4. "Sale" includes any pledge or mortgage of peanuts, after harvest, to any person, public or private.

Added by Laws 1965, c. 349, § 2, emerg. eff. June 28, 1965. Amended by Laws 2001, c. 146, § 38, emerg. eff. April 30, 2001. Renumbered from § 1102 of this title by Laws 2001, c. 146, § 251, emerg. eff. April 30, 2001. Amended by Laws 2015, c. 195, § 2, eff. Nov. 1, 2015.

§2-18-52. Repealed by Laws 2015, c. 195, § 6, eff. Nov. 1, 2015.

§2-18-53. Repealed by Laws 2015, c. 195, § 6, eff. Nov. 1, 2015.

§2-18-54. Repealed by Laws 2015, c. 195, § 6, eff. Nov. 1, 2015.

§2-18-55. Repealed by Laws 2015, c. 195, § 6, eff. Nov. 1, 2015.

§2-18-56. Repealed by Laws 2015, c. 195, § 6, eff. Nov. 1, 2015.

§2-18-57. Assessments - Refunds - Liens.

A. There is hereby levied an assessment of Four Dollars (\$4.00) per net ton of peanuts on a farmer's stock basis marketed in Oklahoma. Such assessment shall be levied and assessed to the grower at the time of sale, and shall be shown as a deduction by the first purchaser from the price paid in settlement to the grower; provided that within sixty (60) days after any sale the grower may upon submission of a written request therefor to the executive director obtain a refund in the amount of the assessment deducted by the first purchaser. The refund to the grower who has requested such refund shall be made within sixty (60) days following the request. Such request shall be accompanied by the producer's marketing settlement forms which shall be evidence of the payment of the assessment which need not be verified.

B. The availability of a refund and instructions describing the process of obtaining a refund shall be posted in a conspicuous public location at all places where the fees are required to be collected.

C. The Oklahoma Peanut Commission shall keep complete records of all refunds made under the provisions of this section. Records of refunds may be destroyed two (2) years after the refund is made.

D. All funds expended in the administration of the Oklahoma Peanut Act and for the payment of all claims whatsoever growing out of the performance of any duties or activities pursuant to the Oklahoma Peanut Act shall be paid from the proceeds derived from subsection A of this section. In the case of a lienholder who is a first purchaser, the assessment shall be deducted by the lienholder from the proceeds of the claim secured by such lien at the time the peanuts are pledged or mortgaged. The assessment shall constitute a preferred lien and shall have priority over all other liens and encumbrances upon such peanuts. The assessment shall be deducted and paid as herein provided whether such peanuts are stored in this or any other state.

Added by Laws 1965, c. 349, § 8, emerg. eff. June 28, 1965. Amended by Laws 1978, c. 134, § 6, emerg. eff. April 4, 1978; Laws 1982, c. 55, § 2, operative July 1, 1982; Laws 2001, c. 146, § 44, emerg. eff. April 30, 2001. Renumbered from § 1108 of this title by Laws 2001, c. 146, § 251, emerg. eff. April 30, 2001. Amended by Laws 2007, c. 195, § 9, emerg. eff. May 31, 2007; Laws 2015, c. 195, § 3, eff. Nov. 1, 2015.

§2-18-58. Receipt for assessments - Peanut Commission Revolving Fund.

A. The assessment imposed shall, before the twentieth day of the calendar month following the date of settlement, be paid by the purchaser to the executive director of the Oklahoma Peanut Commission. The executive director shall give the purchaser a receipt.

B. Any unexpended balance contained in the Oklahoma Peanut Commission Revolving Fund as of November 1, 2015, shall no longer be considered state funds or state property and may be transferred to the successor organization.

Added by Laws 1965, c. 349, § 9, emerg. eff. June 28, 1965. Amended by Laws 1969, c. 209, § 2, emerg. eff. April 18, 1969; Laws 1978, c. 134, § 7, emerg. eff. April 4, 1978; Laws 2001, c. 146, § 45, emerg. eff. April 30, 2001. Renumbered from § 1109 of this title by Laws 2001, c. 146, § 251, emerg. eff. April 30, 2001. Amended by Laws 2015, c. 195, § 4, eff. Nov. 1, 2015.

§2-18-59. Repealed by Laws 2015, c. 195, § 6, eff. Nov. 1, 2015.

§2-18-60. Foreclosure of lien.

If the assessment is not deducted and paid to the executive secretary as provided in the Oklahoma Peanut Act, or within ten (10) days thereafter, the lien may within one (1) year after the expiration of said ten (10) days period be foreclosed by action in any court having jurisdiction in the county in which such peanuts were grown, or sold, or in which such peanuts may be found, or in which such peanuts shall have been commingled with other peanuts. Added by Laws 1965, c. 349, § 10, emerg. eff. June 28, 1965. Amended by Laws 2001, c. 146, § 47, emerg. eff. April 30, 2001. Renumbered from § 1110 of this title by Laws 2001, c. 146, § 251, emerg. eff. April 30, 2001.

§2-18-61. Penalties.

Any person who violates any of the provisions of the Oklahoma Peanut Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00).

Added by Laws 1965, c. 349, § 12, emerg. eff. June 28, 1965. Amended by Laws 2001, c. 146, § 48, emerg. eff. April 30, 2001. Renumbered from § 1112 of this title by Laws 2001, c. 146, § 251, emerg. eff. April 30, 2001.

§2-18-62. Referendum.

A. Before any change in assessment can be made, a referendum of Oklahoma peanut growers shall be conducted to determine the proportion of the peanut growers that favor continuation of the program and the proportion of peanut growers that favor discontinuing the program. Thereafter, such referendum shall be conducted no more than once every three (3) years upon the receipt by the Oklahoma Peanut Commission of petitions requesting a referendum signed by at least ten percent (10%) of Oklahoma peanut growers.

B. At any time a referendum is to be held, the Commission shall write a definition of a producer eligible to vote, and shall cause a notice to be given, by letter or publication in the official publication of the Oklahoma Peanut Commission. The Commission shall send ballots to those persons eligible to vote and shall set the final date for ballots to be returned for tabulation. The Commission shall provide for the printing of ballots and shall furnish a double envelope system so that the identity of a voter cannot be determined. The grower shall return the ballots by way of a sealed envelope, pre-addressed to the President of the State Board of Agriculture.

C. Tabulation of ballots shall be jointly by the President of the State Board of Agriculture and chairman of the Oklahoma Peanut Commission. Whenever the question of levying the assessments is disapproved, by failure of sixty percent (60%) of growers voting in the referendum to favor continuation of the assessments, the proclamation declaring the result shall provide for the termination of the assessments on April 30, following the date of the referendum.

D. Thirty (30) days after termination of the assessment, all remaining funds of the Commission shall be transferred to the experiment stations of Oklahoma State University to be used for continued research on peanuts.

Added by Laws 1965, c. 349, § 13, emerg. eff. June 28, 1965. Amended by Laws 1978, c. 134, § 8, emerg. eff. April 4, 1978; Laws 2001, c. 146, § 49, emerg. eff. April 30, 2001. Renumbered from § 1113 of this title by Laws 2001, c. 146, § 251, emerg. eff. April 30, 2001. Amended by Laws 2015, c. 195, § 5, eff. Nov. 1, 2015.

§2-18-120. Repealed by Laws 2013, c. 118, § 25, eff. Nov. 1, 2013.

§2-18-180. Short title.

Sections 59 through 75 of this act shall be known and may be cited as the "Oklahoma Sheep and Wool Producers Act".

Added by Laws 1973, c. 164, § 1, emerg. eff. May 16, 1973. Amended by Laws 2001, c. 146, § 59, emerg. eff. April 30, 2001. Renumbered from § 1501 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-18-181. Sheep and Wool Utilization, Research and Market Development Commission.

There shall be re-created, to continue until July 1, 2017, in accordance with the provisions of the Oklahoma Sunset Law, the Sheep and Wool Utilization, Research and Market Development Commission for the utilization, research and market development of sheep and wool produced in Oklahoma.

Added by Laws 1973, c. 164, § 2, emerg. eff. May 16, 1973. Amended by Laws 1982, c. 34, § 1, operative July 1, 1982; Laws 1988, c. 225, § 4; Laws 1994, c. 11, § 1; Laws 2000, c. 97, § 1; Laws 2001, c. 146,

§ 60, emerg. eff. April 30, 2001. Renumbered from § 1502 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001. Amended by Laws 2006, c. 46, § 1; Laws 2007, c. 88, § 1; Laws 2013, c. 293, § 1.

§2-18-182. Definitions.

As used in the Oklahoma Sheep and Wool Producers Act, unless the context otherwise requires:

1. "Commission" shall mean the Sheep and Wool Utilization, Research and Market Development Commission;
2. "Dealer" shall mean any person who buys or accepts sheep or wool from a sheep producer for shipment or for delivery to or in behalf of any person within or without the state. Such person may or may not be, depending upon the circumstances, a final purchaser;
3. "Final purchaser " shall mean any person who buys or accepts sheep, either within or without the state, or who buys or accepts wool for processing, or intends to process such wool, either within or without the state;
4. "Oklahoma sheep producer" shall mean anyone personally engaged in producing sheep who markets sheep in Oklahoma either within or without the state; and
5. "Person" shall mean any individual, partnership, association, corporation or other business enterprise.

Added by Laws 1973, c. 164, § 3, emerg. eff. May 6, 1973. Amended by Laws 1984, c. 93, § 1, emerg. eff. April 4, 1984; Laws 2001, c. 146, § 61, emerg. eff. April 30, 2001. Renumbered from § 1503 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-18-183. Membership of Commission.

The Sheep and Wool Utilization, Research and Market Development Commission shall consist of seven (7) elected members who are at least twenty-five (25) years of age and residents of Oklahoma, and have been actually engaged in producing sheep or wool in this state for a period of at least three (3) years. The Commission shall be composed as follows:

1. One member of the Commission shall be a resident of this state and elected at large;
2. Two members of the Commission shall be residents of this state and producers of the major purebred breeds of sheep in this state and shall be elected at large; and
3. The remaining four elected members of the Commission shall be residents of those areas of the state designated as Districts I-IV, one member from each district:
 - a. District I (Northwest), consisting of Alfalfa, Beaver, Blaine, Cimarron, Garfield, Grant, Harper, Kay, Kingfisher, Logan, Major, Noble, Payne, Roger Mills, Texas, Woods, and Woodward Counties,

- b. District II (Southwest), consisting of Beckham, Caddo, Canadian, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Grady, Greer, Harmon, Jackson, Jefferson, Kiowa, Oklahoma, Stephens, Tillman, and Washita Counties,
- c. District III (Southeast), consisting of Atoka, Bryan, Carter, Choctaw, Coal, Garvin, Haskell, Hughes, Johnston, Latimer, LeFlore, Love, McClain, McCurtain, McIntosh, Marshall, Murray, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, and Seminole Counties, and
- d. District IV (Northeast), consisting of Adair, Cherokee, Craig, Creek, Delaware, Lincoln, Mayes, Muskogee, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Rogers, Sequoyah, Tulsa, Wagoner, and Washington Counties.

Added by Laws 1973, c. 164, § 4, emerg. eff. May 16, 1973. Amended by Laws 1984, c. 93, § 2, emerg. eff. April 4, 1984; Laws 2001, c. 146, § 62, emerg. eff. April 30, 2001. Renumbered from § 1504 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-18-184. Election of Commission members.

A. The Oklahoma Sheep and Wool Producers, Incorporated, shall call the original election of members to the Sheep and Wool Utilization, Research and Market Development Commission. All subsequent elections shall be called by the Oklahoma Sheep and Wool Utilization, Research and Market Development Commission. All producers who have paid a fee during the current year, as provided in the Sheep and Wool Producers Act, shall be eligible to vote in the election of members of the Commission, if no part of the fee has been returned to the producer by the Commission. All sheep and wool producers in the state, as defined by the Sheep and Wool Producers Act, shall be eligible to vote in the election of the initial members of the Commission. The election of subsequent at large Commission members shall be by mail as provided in subsection E of this section.

B. Within thirty (30) days after the establishment of the Oklahoma Sheep and Wool Utilization, Research and Market Development Commission, the Oklahoma Sheep and Wool Producers, Incorporated, shall call meetings of the sheep and wool producers in each of the districts established in Section 18-183 of this title, for the purpose of electing members of the Oklahoma Sheep and Wool Utilization, Research and Market Development Commission. A producer shall be entitled to vote for candidates for the Commission to represent his or her respective district, the state at large and a major purebred breed. It shall be the responsibility of the producer to prove eligibility to vote.

C. Members of the Commission shall be elected as follows:

- 1. The members representing Districts I, IV and the state at large for terms ending June 30, 1974;

2. The members representing Districts II and III for terms ending June 30, 1975; and

3. The two members representing the major purebred breeds for terms ending June 30, 1976.

As the terms of office of such members expire, their successors shall be elected for terms of three (3) years as provided in this section.

D. Each member shall hold office until the successor is elected and has qualified. A member elected to fill a vacancy occurring before the expiration of a term of a member separated from the Commission for any cause shall be elected for the remainder of the term of the member whose office has been so vacated.

E. 1. Ballots shall be published at the request of the Commission in any market news service made available to Oklahoma sheep and wool producers. Nominations for election to the Commission for the three at large members shall be published in the market news service in April of each year that a term of office for a Commissioner expires or is vacated with a deadline for selecting three of those nominated for the final runoff election. The names of the three persons receiving the greatest number of votes shall be published in the market news service which is published in May. Ballots for voting for the Commission member shall be published in the market news service in June with a July 1st deadline for mailing the ballots.

2. The ballots shall be counted by the president of the State Board of Agriculture or designee selected from the Oklahoma sheep and wool producers industry and the chairman of the Commission or designee selected from the Commission. The Commission shall promulgate rules for determining the outcome of a tie vote in the election.

3. Nominations for the District members of the Commission shall be made only from sheep and wool producers in that District. Nominations for the members of the Commission to be elected at large shall be made from sheep and wool producers statewide.

Added by Laws 1973, c. 164, § 5, emerg. eff. May 16, 1973. Amended by Laws 1984, c. 93, § 3, emerg. eff. April 4, 1984; Laws 2001, c. 146, § 63, emerg. eff. April 30, 2001. Renumbered from § 1505 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-18-185. Removal of members.

A member of the Sheep and Wool Utilization, Research and Market Development Commission shall be removable by a two-thirds (2/3) vote of the other members of the Commission for cause. A member ceasing to be a resident of the state, ceasing to live in the district from which the member was elected, or ceasing to be actually engaged in producing sheep or wool in the state shall be deemed sufficient cause for removal from office.

Added by Laws 1973, c. 164, § 6, emerg. eff. May 16, 1973. Amended by Laws 2001, c. 146, § 64, emerg. eff. April 30, 2001. Renumbered from § 1506 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-18-186. Officers - Meetings.

At the first meeting of the Sheep and Wool Utilization, Research and Market Development Commission, the Commission shall elect a chair, vice-chair, secretary and treasurer from among the membership, and thereafter at the first meeting of each fiscal year. The Commission shall meet at least once every three (3) months and at such other times as called by the chair or by a majority of the Commission.

Added by Laws 1973, c. 164, § 7, emerg. eff. May 16, 1973. Amended by Laws 2001, c. 146, § 65, emerg. eff. April 30, 2001. Renumbered from § 1507 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-18-187. Powers of Commission.

The Sheep and Wool Utilization, Research and Market Development Commission shall have the power to:

1. Make such reasonable expenditures of funds as is necessary to carry out the provisions of the Oklahoma Sheep and Wool Producers Act;
 2. Devise, adopt and conduct a program of education and publicity;
 3. Cooperate with local, state or national organizations, whether public or private, in carrying out the purposes of the Oklahoma Sheep and Wool Producers Act, and to enter into such contracts as may be necessary. No Commission funds shall be used, directly or indirectly, or as a result of contract or agreement with other persons or organizations, in supporting or opposing political candidates, political officeholders, and legislation, either state or national;
 4. Promulgate such rules as are necessary to promptly and effectively administer the provisions of the Oklahoma Sheep and Wool Producers Act;
 5. Conduct, in addition to the things enumerated, any other program for the utilization, research and market development of sheep and wool produced in the State of Oklahoma;
 6. Call and conduct such meetings and elections as may be necessary in carrying out the provisions of the Oklahoma Sheep and Wool Producers Act; and
 7. Employ an executive secretary and such other personnel as necessary, and to prescribe their duties and fix their compensation.
- Added by Laws 1973, c. 164, § 8, emerg. eff. May 16, 1973. Amended by Laws 2001, c. 146, § 66, emerg. eff. April 30, 2001. Renumbered

from § 1508 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-18-188. Publication of ballot and other information - Voting.

The Sheep and Wool Utilization, Research and Market Development Commission shall cause the ballots and other information required pursuant to the provisions of the Oklahoma Sheep and Wool Producers Act to be published in a market news service available to Oklahoma sheep and wool producers for those persons in the sheep and wool industry. Voting shall be conducted pursuant to rules promulgated by the Sheep and Wool Utilization, Research and Market Development Commission.

Added by Laws 1984, c. 93, § 4, emerg. eff. April 4, 1984. Amended by Laws 1995, c. 87, § 1, emerg. eff. April 12, 1995; Laws 2001, c. 146, § 67, emerg. eff. April 30, 2001. Renumbered from § 1508.1 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-18-189. Assessments - Remittance.

A. There is hereby assessed a fee of twenty-five cents (\$0.25) per head on all sheep produced or sold in the State of Oklahoma and a fee of two cents (\$0.02) per pound on all wool produced or sold in the State of Oklahoma. Such fees are assessed and imposed on the producer at the time of the producer's initial sale through an auction or to a dealer.

B. If the dealer is the first purchaser, such dealer shall remit the applicable fee or fees to the Commission. In the case of wool gathered or held at a common point, cooperative or wool pool for later sale, the applicable fee or fees shall be remitted to the Sheep and Wool Utilization, Research and Market Development Commission at the time of the final settlement with the producer or producers thereof.

C. In any event, it is the duty of the first purchaser to remit such fee or fees to the Commission. No sheep or wool shall be subject to the applicable fee more than once.

Added by Laws 1973, c. 164, § 9, emerg. eff. May 16, 1973. Amended by Laws 1980, c. 191, § 1; Laws 1984, c. 93, § 5, emerg. eff. April 4, 1984; Laws 2001, c. 146, § 68, emerg. eff. April 30, 2001. Renumbered from § 1509 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001; Laws 2004, c. 216, § 2.

§2-18-190. Referendum on continuation of assessments.

A. Producers may petition at any time for a referendum to determine if the assessments levied by the Oklahoma Sheep and Wool Producers Act are to continue. The President of the State Board of Agriculture shall call and conduct a referendum if the petitions bear signatures of ten percent (10%) of the sheep and wool producers.

B. No more than one such referendum shall be conducted in any one thirty-six-month period. The State Board of Agriculture shall determine if the petition bears the required number of valid signatures.

C. The President shall announce the referendum at least thirty (30) days prior to the day of voting. At least thirty (30) days before the referendum the President shall mail a notice of said referendum to all known sheep and wool producers in the State of Oklahoma who market sheep or wool. The notice shall specify the dates, times and places for holding the referendum and shall include a sample ballot with the following wording:

DO YOU FAVOR A CONTINUATION OF THE FIFTEEN CENT (\$0.15)
ASSESSMENT PER HEAD ON SHEEP MARKETING IN OKLAHOMA AND THE ONE
CENT (\$0.01) ASSESSMENT PER POUND ON WOOL MARKETING IN OKLAHOMA
FOR UTILIZATION, RESEARCH AND MARKET DEVELOPMENT?

YES _____ NO _____

D. Places within each county for conducting such referendum shall be designated by the Cooperative Extension Service of Oklahoma State University. Voting in each county shall be supervised by the county extension director or person designated by the Cooperative Extension Service if there is no county extension director in a county at the time of the referendum.

E. The Sheep and Wool Utilization, Research and Market Development Commission shall ensure sufficient ballots and supplies necessary for the conduct of the voting and tabulation of returns.

F. Certified results of the referendum in each county shall be transmitted within twenty-four (24) hours after voting ends to the President of the State Board of Agriculture and the ballots themselves shall be transmitted to the President within forty-eight (48) hours.

G. Ballots shall be preserved by the President for a period of at least three (3) months.

H. The results of the referendum shall be determined by the President and certified to the Governor, who shall issue a proclamation declaring the results.

I. The Commission shall bear expenses of advertising and conducting the referendum.

J. Whenever the question of levying the assessments is disapproved, by failure of sixty percent (60%) of the producers voting in the referendum to favor continuation of the assessments, the proclamation declaring the result shall provide for the termination of the assessments on April 30 following the date of such referendum.

K. Thirty (30) days after termination of the assessments, all remaining funds of the Commission shall be transferred to the Experiment Stations of Oklahoma State University to be used for continued research on sheep and wool.

Added by Laws 1973, c. 164, § 10, emerg. eff. May 16, 1973. Amended by Laws 1980, c. 191, § 2; Laws 1984, c. 93, § 6, emerg. eff. April 4, 1984; Laws 2001, c. 146, § 69, emerg. eff. April 30, 2001. Renumbered from § 1510 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-18-191. Reports and remittance of fees - Penalties.

A. A purchaser shall render and have on file a report with the Sheep and Wool Utilization, Research and Market Development Commission by the fifteenth day of each calendar quarter following any calendar quarter in which such purchaser has purchased five hundred (500) or more sheep for slaughter, or in which such purchaser has purchased five thousand (5,000) pounds of wool for processing. If less than five hundred (500) sheep or less than five thousand (5,000) pounds of wool have been purchased in any calendar quarter, the applicable fee may be reported and remitted with the following quarter's return except that all fees collected must be remitted at least once every six (6) months.

B. In case any person, business or entity, public or private, subject to the fee, fails to make a report and remittance when and as required, the Sheep and Wool Utilization, Research and Market Development Commission shall determine the amount of such fee according to its best information and judgment, which amount so fixed shall be prima facie correct. A person having failed to make the report shall, within ten (10) days after notice of the amount of the fee fixed and computed by the Commission is mailed to the person, pay such fee, together with a penalty of five percent (5%) of the amount of the fee. The person may dispute the fee as fixed by the Commission. The person may request the Commission to hold a hearing to determine the amount of the fee and penalty to be imposed. No payment shall be made until the Commission enters its order determining the amount of the payment. If and when the Commission determines the amount of the payment, such payment shall be paid within ten (10) days of notice of the payment decision.

Added by Laws 1973, c. 164, § 11, emerg. eff. May 16, 1973. Amended by Laws 2001, c. 146, § 70, emerg. eff. April 30, 2001. Renumbered from § 1511 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-18-192. Reports by Commission.

A. The chair of the Sheep and Wool Utilization, Research and Market Development Commission shall make an annual report to the Governor, within thirty (30) days after January 1 of each year, showing in detail all income and expenditures and any other facts relevant to the Oklahoma Sheep and Wool Producers Act. The annual report shall include a list of all officers and employees of the Commission and shall indicate the official positions of such officers

and employees and their salaries. The report shall be available to the public.

B. All records of the Commission shall be kept at least three (3) years.

C. The Commission shall submit a report of its income, expenditures and a brief survey of its work annually to the Chairs of the Agriculture Committees of the House of Representatives and Senate of the State Legislature.

Added by Laws 1973, c. 164, § 12, emerg. eff. May 16, 1973. Amended by Laws 2001, c. 146, § 71, emerg. eff. April 30, 2001. Renumbered from § 1512 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-18-193. Refunds - Application.

A. Any sheep or wool producer who is assessed the fee or fees authorized by the Oklahoma Sheep and Wool Producers Act and objects to the collection of such fee may, within sixty (60) days following such collection, make application to the Sheep and Wool Utilization, Research and Market Development Commission for a refund of such fee or fees. Upon receipt of such application by the Commission such refund shall be made within one hundred twenty (120) days. Application forms for refund purposes shall be furnished by the Commission and shall be made available at all places where the fees provided in the Oklahoma Sheep and Wool Producers Act are required to be collected.

B. The availability of a refund and instructions describing the process of obtaining a refund shall be posted in a conspicuous public location at all places where the fees are required to be collected. Added by Laws 1973, c. 164, § 13, emerg. eff. May 16, 1973. Amended by Laws 1982, c. 34, § 2, operative July 1, 1982; Laws 2001, c. 146, § 72, emerg. eff. April 30, 2001. Renumbered from § 1513 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-18-194. Proposed budget of Sheep and Wool Utilization, Research and Market Development Commission - Review - Itemization of income and expenditures.

A. The Sheep and Wool Utilization, Research and Market Development Commission shall file with the Director of the Market Development Division of the Oklahoma Department of Agriculture, Food, and Forestry a proposed budget and may expend funds only after the division director has approved the budget.

B. If after thorough review the division director disapproves the proposed budget, the proposed budget shall be returned to the Commission not later than forty-five (45) days after the date on which the proposed budget is submitted with a statement of reasons for disapproval.

C. Within thirty (30) days following the end of each fiscal year of the Commission, the Commission shall submit to the Director of the Market Development Division of the Oklahoma Department of Agriculture, Food, and Forestry a report itemizing all income and expenditures and describing all activities of the Commission during the previous fiscal year.

D. No general revenue funds shall be appropriated to carry out the provisions of the Oklahoma Sheep and Wool Producers Act. Funds collected by the Commission shall not be subject to state budget and expenditure limitations. Such funds shall at no time become monies of the state or become part of the general budget of the state. Debts or obligations of the Commission shall not be construed to be debts or obligations of this state.

Added by Laws 1973, c. 164, § 14, emerg. eff. May 16, 1973. Amended by Laws 1979, c. 47, § 1, emerg. eff. April 9, 1979; Laws 2000, c. 173, § 1, emerg. eff. May 3, 2000; Laws 2001, c. 146, § 73, emerg. eff. April 30, 2001. Renumbered from § 1514 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001. Amended by Laws 2010, c. 413, § 6, eff. July 1, 2010.

§2-18-195. Cooperation with other organizations.

The Sheep and Wool Utilization, Research and Market Development Commission may cooperate with and enter into contracts with proper local, state or national organizations, public or private, in carrying out the purposes of the Oklahoma Sheep and Wool Producers Act.

Added by Laws 1973, c. 164, § 15, emerg. eff. May 16, 1973. Amended by Laws 2001, c. 146, § 74, emerg. eff. April 30, 2001. Renumbered from § 1515 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-18-196. Actions by Attorney General - Penalties.

The Attorney General may bring action in the district court of Oklahoma County to recover all fees and penalties due the Sheep and Wool Utilization, Research and Market Development Commission for failure of any person to comply with the provisions of the Oklahoma Sheep and Wool Producers Act. Any person violating any of the provisions of the Oklahoma Sheep and Wool Producers Act upon conviction thereof shall be guilty of a misdemeanor.

Added by Laws 1973, c. 164, § 16, emerg. eff. May 16, 1973. Amended by Laws 2001, c. 146, § 75, emerg. eff. April 30, 2001. Renumbered from § 1516 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-18-240. Short title - Purpose.

A. This subarticle shall be known and may be cited as the "Oklahoma Sorghum Resources Act".

B. The purpose of the Oklahoma Sorghum Resources Act shall be to develop programs that will enhance sorghum production, sorghum research, promoting market development and education, and improving profitability of Oklahoma sorghum producers.

Added by Laws 1997, c. 151, § 1, emerg. eff. April 25, 1997. Amended by Laws 2001, c. 146, § 134, emerg. eff. April 30, 2001. Renumbered from § 1850.1 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001.

§2-18-241. Definitions.

As used in the Oklahoma Sorghum Resources Act:

1. "Commercial channels" means the sale of sorghum for any use, when sold to any commercial buyer, dealer, processor, cooperative, or to any person, public or private, who resells any sorghum or product produced from sorghum;

2. "Commercial quantities" means and includes all bushels of sorghum produced for market in any calendar year by any producer;

3. "Commission" means the Oklahoma Sorghum Commission;

4. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry;

5. "First purchaser" means any person buying or acquiring after harvest the property in or to sorghum from a sorghum producer. A mortgagee, pledgee, lienholder, or other person having a claim against the sorghum producer under a nonrecourse loan made against the sorghum after harvest shall be a purchaser. The term "first purchaser" shall not include a harvesting or threshing lienee;

6. "President" means the President of the State Board of Agriculture; and

7. "Sorghum producer" or "producer" means an individual engaged in the production of sorghum, who markets sorghum in commercial quantities in Oklahoma. Each individual determined to be an entity pursuant to rules promulgated by the United States Department of Agriculture Farm Service Agency shall be considered a sorghum producer.

Added by Laws 1997, c. 151, § 2, emerg. eff. April 25, 1997. Amended by Laws 2001, c. 146, § 135, emerg. eff. April 30, 2001. Renumbered from § 1850.2 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001. Amended by Laws 2017, c. 220, § 1, eff. Nov. 1, 2017.

§2-18-242. Repealed by Laws 2017, c. 220, § 5, eff. Nov. 1, 2017.

§2-18-243. Repealed by Laws 2017, c. 220, § 6, eff. Nov. 1, 2017.

§2-18-244. Repealed by Laws 2017, c. 220, § 7, eff. Nov. 1, 2017.

§2-18-245. Assessment of fees.

A. 1. There is hereby assessed a fee of one cent (\$0.01) per bushel upon all sorghum marketed by sorghum producers in this state and sold or handled through commercial channels. The fee shall be assessed and imposed upon the sorghum producer at the time of sale or delivery and shall be collected and remitted by the first purchaser to the Commission. Pursuant to the provisions of the Oklahoma Sorghum Resources Act, no sorghum shall be subject to assessment of a fee more than once.

2. No assessments for sorghum shall be collected in accordance with this section while a national checkoff program for sorghum established pursuant to 7 CFR 1221 remains in effect. The collection of assessments in accordance with this section shall be reinstated upon suspension or termination of the program for sorghum established pursuant to 7 CFR 1221.

B. 1. The first purchaser shall collect the assessment by deducting the appropriate amount from the purchase price of the sorghum or from any funds advanced for that purpose.

2. The Commission, by registered or certified mail, shall notify each first purchaser of the duty to collect the assessment, the manner in which the assessment is to be collected, and the date on or after which the first purchaser is to begin collecting the assessment.

3. The amount of the assessment collected shall be clearly shown on the sales invoice or other document evidencing the transaction. The first purchaser shall furnish a copy of the document to the sorghum producer.

4. The Commission shall establish through bylaws the procedures for the collection and remittance of the assessment.

C. Any unexpended balance contained in the Oklahoma Sorghum Resources Fund as of November 1, 2017, shall be transferred and deposited to the credit of the General Revenue Fund of the State Treasury.

Added by Laws 1997, c. 151, § 6, emerg. eff. April 25, 1997. Amended by Laws 2001, c. 146, § 139, emerg. eff. April 30, 2001. Renumbered from § 1850.6 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001. Amended by Laws 2008, c. 57, § 1, eff. July 1, 2008; Laws 2017, c. 220, § 2, eff. Nov. 1, 2017.

§2-18-246. Report and remittance of fees.

A. The first purchaser shall render and have on file a report along with remittance of the fees collected pursuant to the Oklahoma Sorghum Resources Act on the fifteenth of each calendar quarter. The report shall include the total amount of fees assessed by the first purchaser, the total amount of sorghum purchased and other information as may be required by the Oklahoma Sorghum Commission.

B. If the first purchaser fails to make a report and remittance as required by the Oklahoma Sorghum Resources Act, the Commission

shall determine the amount collected and owed by the first purchaser, which shall be prima facie correct. Any first purchaser having failed to make the report as required by the Oklahoma Sorghum Resources Act shall, within ten (10) days after notice of the computed collection amount established by the Commission is mailed to the first purchaser, pay the computed collection amount, together with a penalty of five percent (5%) of the computed collection amount. The first purchaser may dispute the computed collection amount established by the Commission and request the Commission to hold a hearing to redetermine the amount of the computed collection and the penalty to be imposed. No payment shall be made until the Commission enters its order determining the amount of payment. The payment of the determined collection amount and penalty shall be paid within ten (10) days of notice of the decision.

C. At any time the Oklahoma Department of Agriculture, Food, and Forestry may request an audit of the first purchaser to determine whether the collection and proper disposition of the collected assessment were made pursuant to the provisions of the Oklahoma Sorghum Resources Act.

D. The first purchaser shall retain any records or reports relating to the collection of the assessment for at least three (3) years.

Added by Laws 1997, c. 151, § 7, emerg. eff. April 25, 1997. Amended by Laws 2001, c. 146, § 140, emerg. eff. April 30, 2001. Renumbered from § 1850.7 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001. Amended by Laws 2017, c. 220, § 3, eff. Nov. 1, 2017.

§2-18-247. Repealed by Laws 2017, c. 220, § 8, eff. Nov. 1, 2017.

§2-18-248. Refund of fees.

A. Any sorghum producer subject to the assessment provided in the Oklahoma Sorghum Resources Act may request a refund of the fees so assessed, within sixty (60) days following the collection of the fee. Any sorghum producer requesting a refund shall make application to the Oklahoma Sorghum Commission for the refund of the assessment. Along with the application, the sorghum producer shall submit the evidence of payment of the fee and of the amount of sorghum sold required by the Commission. The Commission may verify the accuracy of the request for the refund.

B. Upon receipt of the application for a refund and evidence required, the Commission shall refund the amount of the assessment owed to the producer within thirty (30) days of the date the refund request was received and the Commission received payment from the first purchaser.

Added by Laws 1997, c. 151, § 9, emerg. eff. April 25, 1997. Amended by Laws 2001, c. 146, § 142, emerg. eff. April 30, 2001. Renumbered

from § 1850.9 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001.

§2-18-249. Repealed by Laws 2017, c. 220, § 9, eff. Nov. 1, 2017.

§2-18-250. Repealed by Laws 2017, c. 220, § 10, eff. Nov. 1, 2017.

§2-18-251. Referendum on assessments.

A. Sorghum producers may petition for a referendum to determine if the assessment is to be continued, at any time. The President of the State Board of Agriculture shall call and conduct a referendum if the petitions bear signatures of ten percent (10%) of the sorghum producers. No more than one referendum shall be conducted in any one thirty-six-month period. The Oklahoma Department of Agriculture, Food, and Forestry shall determine if the petition bears the required number of valid signatures. The President shall announce the referendum at least thirty (30) days prior to the day of voting. At least thirty (30) days before the referendum, the Department shall mail a notice of the referendum to all known sorghum producers in the State of Oklahoma who market sorghum in commercial quantities. The notice shall specify the dates, times, and places for holding the referendum, and shall include a sample ballot with the following wording:

DO YOU FAVOR A CONTINUATION OF THE ONE CENT (\$0.01) PER BUSHEL
ASSESSMENT ON SORGHUM MARKETED IN OKLAHOMA FOR UTILIZATION,
RESEARCH, EDUCATION, PROMOTION, AND MARKET DEVELOPMENT?

YES ()

NO ()

B. Places within each county for conducting the referendum shall be designated by the Agricultural Extension Division of Oklahoma State University, and voting in each county shall be supervised by the county agricultural extension agent, or person designated by the Department. The Oklahoma Sorghum Commission shall ensure sufficient ballots and supplies necessary for the conduct of the voting and tabulation of returns. Certified results of the referendum in each district shall be transmitted within twenty-four (24) hours after voting ends to the President, and the ballots shall be transmitted to the President within forty-eight (48) hours. Ballots shall be preserved by the President for a period of at least three (3) months.

C. 1. The results of the referendum shall be determined by the President, and the results certified to the Governor who shall issue a proclamation declaring the results.

2. The Commission shall bear expenses of advertising and conducting the referendum.

D. Whenever the question of levying the assessments is disapproved, by failure of sixty percent (60%) of the sorghum producers voting in the referendum to favor continuation of the assessments, the proclamation declaring the result shall provide for

the termination of the assessments on April 30, following the date of the referendum.

Added by Laws 1997, c. 151, § 12, emerg. eff. April 25, 1997.

Amended by Laws 2001, c. 146, § 145, emerg. eff. April 30, 2001.

Renumbered from § 1850.12 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001. Amended by Laws 2017, c. 220, § 4, eff. Nov. 1, 2017.

§2-18-270. Short title - Purpose.

A. This act shall be known and may be cited as the "Oklahoma Oilseed Resources Act".

B. The purpose of the Oklahoma Oilseed Resources Act shall be to develop programs that will enhance oilseed production, oilseed research, promoting market development and education, and improving profitability of Oklahoma oilseed producers.

Added by Laws 2008, c. 154, § 1, eff. Nov. 1, 2008.

§2-18-271. Definitions.

As used in the Oklahoma Oilseed Resources Act:

1. "Commercial channels" means the sale of oilseed for any use, when sold to any commercial buyer, dealer, processor, cooperative, or to any person, public or private, who resells any oilseed or product produced from oilseed;

2. "Commercial quantities" means and includes all hundredweights (CWT) of oilseed produced for market in any calendar year by any producer;

3. "Commission" means the Oklahoma Oilseed Commission;

4. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry;

5. "First purchaser" means any person buying or acquiring after harvest the property in or to oilseed from an oilseed producer. A mortgagee, pledgee, lienholder, or other person having a claim against the oilseed producer under a nonrecourse loan made against the oilseed after harvest shall be a purchaser. The term "first purchaser" shall not include a harvesting or threshing lienee;

6. "President" means the President of the State Board of Agriculture;

7. "Oilseed" means any seed or crop grown primarily or mainly for oil; and

8. "Oilseed producer" or "producer" means an individual engaged in the production of oilseed, who markets oilseed in commercial quantities in Oklahoma. Each individual determined to be an entity pursuant to rules promulgated by the United States Department of Agriculture Farm Service Agency shall be considered an oilseed producer.

Added by Laws 2008, c. 154, § 2, eff. Nov. 1, 2008. Amended by Laws 2017, c. 117, § 1, eff. Nov. 1, 2017.

§2-18-272. Repealed by Laws 2017, c. 117, § 6, eff. Nov. 1, 2017.

§2-18-273. Repealed by Laws 2017, c. 117, § 6, eff. Nov. 1, 2017.

§2-18-274. Repealed by Laws 2017, c. 117, § 6, eff. Nov. 1, 2017.

§2-18-275. Oilseed fee - Collection of assessment.

A. There is hereby assessed a fee to be determined by each oilseed subcommittee for oilseed marketed by oilseed producers in this state and sold or handled through commercial channels. The fee shall be assessed and imposed upon the oilseed producer at the time of sale or delivery and shall be collected and remitted by the first purchaser to the Oklahoma Oilseed Commission. Pursuant to the provisions of the Oklahoma Oilseed Resources Act, no oilseed shall be subject to assessment of a fee more than once including a national checkoff. If the assessment of a national checkoff fee ceases to exist, an Oklahoma assessment shall then be implemented.

B. 1. The first purchaser shall collect the assessment by deducting the appropriate amount from the purchase price of the oilseed or from any funds advanced for that purpose.

2. The amount of the assessment collected shall be clearly shown on the sales invoice or other document evidencing the transaction. The first purchaser shall furnish a copy of the document to the oilseed producer.

Added by Laws 2008, c. 154, § 6, eff. Nov. 1, 2008. Amended by Laws 2017, c. 117, § 2, eff. Nov. 1, 2017.

§2-18-276. Report and remittance of fees - Failure to report - Audit - Retention of records and reports.

A. The first purchaser shall render and have on file a report along with remittance of the fees collected pursuant to the Oklahoma Oilseed Resources Act on the fifteenth of each calendar quarter. The report shall include the total amount of fees assessed by the first purchaser, the total amount of oilseed purchased and other information as may be required by the Oklahoma Oilseed Commission.

B. If the first purchaser fails to make a report and remittance as required by the Oklahoma Oilseed Resources Act, the Commission shall determine the amount collected and owed by the first purchaser, which shall be prima facie correct. Any first purchaser having failed to make the report as required by the Oklahoma Oilseed Resources Act shall, within ten (10) days after notice of the computed collection amount established by the Commission is mailed to the first purchaser, pay the computed collection amount, together with a penalty of five percent (5%) of the computed collection amount. The first purchaser may dispute the computed collection amount established by the Commission and request the Commission to

hold a hearing to redetermine the amount of the computed collection and the penalty to be imposed. No payment shall be made until the Commission enters its order determining the amount of payment. The payment of the determined collection amount and penalty shall be paid within ten (10) days of notice of the decision.

C. At any time the Oklahoma Department of Agriculture, Food, and Forestry may request an audit of the first purchaser to determine whether the collection and proper disposition of the collected assessment were made pursuant to the provisions of the Oklahoma Oilseed Resources Act.

D. The first purchaser shall retain any records or reports relating to the collection of the assessment for at least three (3) years.

Added by Laws 2008, c. 154, § 7, eff. Nov. 1, 2008. Amended by Laws 2017, c. 117, § 3, eff. Nov. 1, 2017.

§2-18-277. Annual report to Secretary of Agriculture.

A. The chair of the Oklahoma Oilseed Commission shall make an annual report to the Secretary of Agriculture, within forty-five (45) days after June 30 of each year, showing in detail all income and expenditures and any other facts relevant to the Oklahoma Oilseed Resources Act. The annual report shall include a list of all officers and any employees of the Commission and shall indicate the official positions of officers and any employees and salaries paid.

B. The report shall be available to the public. A copy shall be sent upon request to any producer upon whom the assessment is assessed.

C. All records of the Commission shall be kept at least three (3) years.

Added by Laws 2008, c. 154, § 8, eff. Nov. 1, 2008.

§2-18-278. Refund of fees.

A. Any oilseed producer subject to the assessment provided in the Oklahoma Oilseed Resources Act may request a refund of the fees so assessed, within sixty (60) days following the collection of the fee. Any oilseed producer requesting a refund shall make application to the Oklahoma Oilseed Commission for the refund of the assessment. Along with the application, the oilseed producer shall submit the evidence of payment of the fee and of the amount of oilseed sold required by the Commission. The Commission may verify the accuracy of the request for the refund.

B. Upon receipt of the application for a refund and evidence required, the Commission shall refund the amount of the assessment owed to the producer within thirty (30) days of the date the refund request was received and the Commission received payment from the first purchaser.

Added by Laws 2008, c. 154, § 9, eff. Nov. 1, 2008.

§2-18-279. Oklahoma Oilseed Resources Fund.

There is created until November 1, 2017, the Oklahoma Oilseed Resources Fund. The Oklahoma Oilseed Resources Fund shall be administered by the Oklahoma Oilseed Commission for the benefit of the oilseed producers in this state for the purposes specified by the Oklahoma Oilseed Resources Act. The Oklahoma Oilseed Resources Fund shall be established and maintained in a bank or other depository as approved by the Commission and the President of the State Board of Agriculture. Any unexpended balance contained in the revolving fund designated for the Oklahoma Oilseed Commission on November 1, 2017, shall be transferred and deposited to the credit of the General Revenue Fund of the State Treasury.

Added by Laws 2008, c. 154, § 10, eff. Nov. 1, 2008. Amended by Laws 2017, c. 117, § 4, eff. Nov. 1, 2017.

§2-18-280. Repealed by Laws 2017, c. 117, § 6, eff. Nov. 1, 2017.

§2-18-281. Referendum to continue assessment.

A. Oilseed producers may petition for a referendum to determine if the assessment is to be continued at any time. The President of the State Board of Agriculture shall call and conduct a referendum if the petitions bear signatures of ten percent (10%) of the oilseed producers. No more than one referendum shall be conducted in any one thirty-six-month period. The Oklahoma Department of Agriculture, Food, and Forestry shall determine if the petition bears the required number of valid signatures. The President shall announce the referendum at least thirty (30) days prior to the day of voting. At least thirty (30) days before the referendum, the Department shall mail a notice of the referendum to all known oilseed producers in the State of Oklahoma who market oilseed in commercial quantities. The notice shall specify the dates, times, and places for holding the referendum, and shall include a sample ballot with the following wording:

DO YOU FAVOR A CONTINUATION OF THE THREE CENTS (\$0.03) PER
HUNDREDWEIGHT (CWT) ASSESSMENT ON OILSEED MARKETING IN OKLAHOMA
FOR UTILIZATION, RESEARCH, EDUCATION, PROMOTION, AND MARKET
DEVELOPMENT?

YES ()

NO ()

B. Places within each county for conducting the referendum shall be designated by the Agricultural Extension Division of Oklahoma State University, and voting in each county shall be supervised by the county agricultural extension agent, or person designated by the Department. The Oklahoma Oilseed Commission shall ensure sufficient ballots and supplies necessary for the conduct of the voting and tabulation of returns. Certified results of the referendum in each district shall be transmitted within twenty-four (24) hours after

voting ends to the President, and the ballots shall be transmitted to the President within forty-eight (48) hours. Ballots shall be preserved by the President for a period of at least three (3) months.

C. 1. The results of the referendum shall be determined by the President, and the results certified to the Governor who shall issue a proclamation declaring the results.

2. The Commission shall bear expenses of advertising and conducting the referendum.

D. Whenever the question of levying the assessments is disapproved, by failure of sixty percent (60%) of the oilseed producers voting in the referendum to favor continuation of the assessments, the proclamation declaring the result shall provide for the termination of the assessments on April 30, following the date of the referendum.

Added by Laws 2008, c. 154, § 12, eff. Nov. 1, 2008. Amended by Laws 2017, c. 117, § 5, eff. Nov. 1, 2017.

§2-18-300. Short title - Oklahoma Wheat Resources Act.

Sections 18-300 through 18-317 of this title shall be known and may be cited as the "Oklahoma Wheat Resources Act".

Added by Laws 1965, c. 59, § 1, emerg. eff. April 7, 1965. Amended by Laws 2001, c. 146, § 19, emerg. eff. April 30, 2001. Renumbered from § 1021 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001. Amended by Laws 2014, c. 1, § 27, eff. July 1, 2014; Laws 2016, c. 269, § 2, eff. Nov. 1, 2016.

§2-18-301. Repealed by Laws 2016, c. 269, § 13, eff. Nov. 1, 2016.

§2-18-302. Definitions.

As used in the Oklahoma Wheat Resources Act, unless the context otherwise requires:

1. "Commission" means the Oklahoma Wheat Commission;
2. "Wheat producer" means anyone personally engaged in growing wheat, who markets wheat in commercial quantities in Oklahoma, and includes both the owner and tenant;
3. "Commercial quantities" means and includes all bushels of wheat produced for market in any calendar year by a producer;
4. "First purchaser" means any person, public or private corporation, or partnership buying, accepting for shipment within the state or otherwise acquiring the property in or to wheat from a producer, and includes a mortgagee, pledgee, lienor, or other person, public or private, having a claim against the producer, if the actual or constructive possession of such wheat is taken as part payment or in satisfaction of such mortgage, pledge, lien or claim; and
5. "Commercial channels" means the sale of wheat for any use, when sold to any commercial buyer, dealer, processor, cooperative, or

to any person, public or private, who resells any wheat or product produced from wheat.

Added by Laws 1965, c. 59, § 3, emerg. eff. April 7, 1965. Amended by Laws 1981, c. 298, § 1, emerg. eff. June 29, 1981; Laws 2001, c. 146, § 21, emerg. eff. April 30, 2001. Renumbered from § 1023 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001. Amended by Laws 2016, c. 269, § 3, eff. Nov. 1, 2016.

§2-18-303. Repealed by Laws 2016, c. 269, § 13, eff. Nov. 1, 2016.

§2-18-304. Repealed by Laws 2016, c. 269, § 13, eff. Nov. 1, 2016.

§2-18-305. Repealed by Laws 2016, c. 269, § 13, eff. Nov. 1, 2016.

§2-18-306. Repealed by Laws 2016, c. 269, § 13, eff. Nov. 1, 2016.

§2-18-307. Public policy.

It is hereby declared to be the public policy of the State of Oklahoma to protect and foster the health, prosperity, and general welfare of its people by protecting and stabilizing the wheat industry and the economy of the areas producing wheat.

Added by Laws 1965, c. 59, § 9, emerg. eff. April 7, 1965. Amended by Laws 1981, c. 298, § 5, emerg. eff. June 29, 1981; Laws 1985, c. 178, § 2, operative July 1, 1985; Laws 2001, c. 146, § 26, emerg. eff. April 30, 2001. Renumbered from § 1029 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001. Amended by Laws 2016, c. 269, § 4, eff. Nov. 1, 2016.

§2-18-308. Promotional fee - Assessment and allocation.

A. There is hereby assessed a fee of two cents (\$0.02) per bushel upon all wheat marketed by wheat producers in this state and sold through commercial channels. The fee is assessed and imposed on the producer at the time of sale or delivery, and shall be collected and remitted by the first purchaser to the Oklahoma Wheat Commission. Under the provisions of the Oklahoma Wheat Resources Act, no wheat shall be subject to a fee more than once.

B. The Commission shall allocate twenty percent (20%) of the two-cent fee levied and collected pursuant to subsection A of this section to the Oklahoma Wheat Research Foundation for the purpose of conducting wheat research, including, but not limited to, utilization and educational projects, less the cost of collecting the fee, such cost not to exceed fifty percent (50%) of the total of the office rental and clerical costs, and the costs of supplies and postage and such cost to be prorated on the basis of eighty percent (80%) to the Commission and twenty percent (20%) to the Oklahoma Wheat Research Foundation.

C. In order for the Oklahoma Wheat Research Foundation to qualify for the allocation of twenty percent (20%) of collected fees, the Commission shall appoint a member of the Oklahoma Wheat Commission to the Oklahoma Wheat Research Foundation board of directors.

D. Any unexpended balance contained in the revolving fund designated for the Wheat Utilization, Research and Market Development Commission as of November 1, 2016, shall be transferred and deposited to the credit of the General Revenue Fund of the State Treasury. Added by Laws 1965, c. 59, § 10, emerg. eff. April 7, 1965. Amended by Laws 1976, c. 91, § 1, emerg. eff. May 6, 1976; Laws 1978, c. 145, § 1, emerg. eff. April 5, 1978; Laws 1981, c. 298, § 6, emerg. eff. June 29, 1981; Laws 1998, c. 16, § 1, eff. July 1, 1998; Laws 2001, c. 146, § 27, emerg. eff. April 30, 2001. Renumbered from § 1030 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001. Amended by Laws 2011, c. 87, § 1, eff. Jan. 1, 2012; Laws 2016, c. 269, § 5, eff. Nov. 1, 2016.

§2-18-309. Referendum to determine continuation of fee.

A. Producers may petition for a referendum at any time after five (5) years following the effective date of the Oklahoma Wheat Resources Act to determine if the assessment is to be continued.

B. The President of the State Board of Agriculture shall call and conduct a referendum if the petitions bear signatures of ten percent (10%) of the wheat producers. No more than one such referendum shall be conducted in any one thirty-six-month period. The State Board of Agriculture shall determine if the petition bears the required number of valid signatures. The President shall announce the referendum at least thirty (30) days prior to the day of voting. At least thirty (30) days before the referendum, the President shall mail a notice of the referendum to all known wheat producers in the State of Oklahoma who market wheat in commercial quantities. The notice shall specify the dates, times, and places for holding the referendum. The notice shall also include a sample ballot with the following wording:

DO YOU FAVOR A CONTINUATION OF THE 20 MILL PER BUSHEL ASSESSMENT
ON WHEAT MARKETING IN OKLAHOMA FOR UTILIZATION, RESEARCH AND
MARKET DEVELOPMENT?

YES ()

NO ()

C. Places within each county for conducting the referendum shall be designated by the Agricultural Extension Division of Oklahoma State University. Voting in each county shall be supervised by the county agricultural extension agent, or a person designated by the Extension Division in cases where there is no county agent in a county at the time of the referendum.

D. The Oklahoma Wheat Commission shall ensure sufficient ballots and supplies necessary for conducting the voting and the tabulation of returns.

E. Certified results of the referendum in each county shall be transmitted within twenty-four (24) hours after voting ends to the President of the State Board of Agriculture. The ballots shall be transmitted to the President within forty-eight (48) hours. Ballots shall be preserved by the President for a period of at least three (3) months.

F. The results of the referendum shall be determined by the President and the results certified to the Governor, who shall issue a proclamation declaring the results.

G. The Commission shall bear expenses of advertising and conducting the referendum.

H. Whenever the question of levying the assessments is disapproved, by failure of sixty percent (60%) of the producers voting in the referendum to favor continuation of the assessments, the proclamation declaring the result shall provide for the termination of the assessments on April 30, following the date of the referendum.

I. Thirty (30) days after termination of the assessment, all remaining funds of the Commission shall be transferred to the Experiment Stations of Oklahoma State University, to be used for continued research on wheat.

Added by Laws 1965, c. 59, § 11, emerg. eff. April 7, 1965. Amended by Laws 1981, c. 298, § 7, emerg. eff. June 29, 1981; Laws 1998, c. 16, § 2, eff. July 1, 1998; Laws 2001, c. 146, § 28, emerg. eff. April 30, 2001. Renumbered from § 1031 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001. Amended by Laws 2011, c. 87, § 2, eff. Jan. 1, 2012; Laws 2016, c. 269, § 6, eff. Nov. 1, 2016.

§2-18-310. Pledge or mortgage of wheat - Deduction of fee.

A. In the case of a pledge or mortgage of wheat as security for a loan under the federal price support program, the promotional fee levied pursuant to the provisions of the Oklahoma Wheat Resources Act shall be deducted from the proceeds of such loans at the time the loans are made, or shall be deducted thereafter by agencies of the federal government. Any producer's note and loan agreement or producer's note and supplemental loan agreement or delivery instructions issued by the federal agency to the producer are hereby approved as fulfilling the requirements for invoices, and such forms shall be deemed to constitute proof of payment of the promotional fee on the wheat listed thereon.

B. Supplemental or alternate forms which may be proposed by the Commodity Credit Corporation and contained the necessary information may be used without revision of the Oklahoma Wheat Resources Act.

C. The Commodity Credit Corporation's use of identification numbers in lieu of the name of the producer from whom the fee was collected is hereby approved, provided that authorized officials of the State of Oklahoma will have access at all reasonable times to records in the county agricultural stabilization and conservation offices showing the names of producers to whom such identification numbers have been assigned.

D. If pledged or mortgaged wheat, described in subsection A of this section, remains in farm storage for the duration of the pledge or mortgage, the promotional fee so paid at the time the loan was made shall be deemed a complete satisfaction of the fee liability unless upon subsequent actual delivery of the wheat from farm storage in satisfaction of the pledge, or mortgage in the amount of One Dollar (\$1.00) or more, such underpayment being due solely for the necessity of estimating the quantity of wheat so placed in farm storage.

E. In connection with the collection of the wheat promotional fee on Commodity Credit Corporation wheat loans disbursed and purchase agreement settlement made, undercollections or overcollections of the wheat promotional fee amounting to One Dollar (\$1.00) or less as a result of errors, will not require collection of the underpayment or refund of the overpayment by Commodity Credit Corporation and their responsibility in such cases shall be waived. Added by Laws 1965, c. 59, § 12, emerg. eff. April 7, 1965. Amended by Laws 1981, c. 298, § 8, emerg. eff. June 29, 1981; Laws 2001, c. 146, § 29, emerg. eff. April 30, 2001. Renumbered from § 1032 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001.

§2-18-311. Report and remittance.

A. The purchaser shall render and have on file a report with the Oklahoma Wheat Utilization, Research and Market Development Commission by the fifteenth day of each calendar quarter following any calendar quarter in which such a purchaser has purchased ten thousand (10,000) or more bushels of wheat. If less than ten thousand (10,000) bushels have been purchased, in any calendar quarter, the fee may be reported and remitted with the following quarter's return, except that all fees collected must be remitted at least once every six (6) months.

B. In case any person, business or entity, public or private, subject to the fee, fails to make a report and remittance as required, the Director of the Commission shall determine the amount of the fee according to his or her best judgment and information. The amount so fixed by the Director shall be prima facie correct. The person having failed to make the report shall, within ten (10) days after notice of the amount of the fee so fixed and computed by the Director is mailed to such person, pay the fee, together with a penalty of five percent (5%) on the amount of the fee. The person

may dispute the fee as fixed by the Director and request the Commission to hold a hearing to determine the amount of the fee and penalty to be imposed. No payment shall be made until the Commission enters its order determining the amount of the payment. When the Commission determines the amount of the payment, the payment shall be paid within ten (10) days of notice of such decision.

Added by Laws 1965, c. 59, § 13, emerg. eff. April 7, 1965. Amended by Laws 2001, c. 146, § 30, emerg. eff. April 30, 2001. Renumbered from § 1033 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001.

§2-18-312. Annual reports.

The Oklahoma Wheat Research Foundation shall make an annual report to the chair of the Commission, within fifteen (15) days after June 30 of each year, showing disposition of all funds allocated to it under the provisions of the Oklahoma Wheat Resources Act.

Added by Laws 1965, c. 59, § 14, emerg. eff. April 7, 1965. Amended by Laws 1976, c. 91, § 2, emerg. eff. May 6, 1976; Laws 1981, c. 298, § 9, emerg. eff. June 29, 1981; Laws 2001, c. 146, § 31, emerg. eff. April 30, 2001. Renumbered from § 1034 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001. Amended by Laws 2016, c. 269, § 7, eff. Nov. 1, 2016.

§2-18-313. Refunds.

A. Any wheat producer subject to the assessment provided in the Oklahoma Wheat Resources Act may request a refund of the fees so assessed within sixty (60) days following the collection of the fee. Any wheat producer requesting a refund shall make application to the Oklahoma Wheat Commission for the refund of the assessment. Along with the application, the wheat producer shall submit the evidence of payment of the fee and of the amount of wheat sold required by the Commission. The Commission may verify the accuracy of the request for the refund.

B. Upon receipt of the application for a refund and evidence required, the Commission shall refund the amount of the assessment owed to the producer within thirty (30) days of the date the refund request was received and the Commission received payment from the first purchaser.

Added by Laws 1965, c. 59, § 15, emerg. eff. April 7, 1965. Amended by Laws 1982, c. 30, § 2, operative July 1, 1982; Laws 2001, c. 146, § 32, emerg. eff. April 30, 2001. Renumbered from § 1035 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001. Amended by Laws 2006, c. 68, § 1, eff. Nov. 1, 2006.

§2-18-314. Repealed by Laws 2016, c. 269, § 13, eff. Nov. 1, 2016.

§2-18-315. Repealed by Laws 2016, c. 269, § 13, eff. Nov. 1, 2016.

§2-18-316. Repealed by Laws 2016, c. 269, § 13, eff. Nov. 1, 2016.

§2-18-317. Violations.

Any person violating any of the provisions of the Oklahoma Wheat Resources Act shall be guilty of a misdemeanor.

Added by Laws 1965, c. 59, § 18, emerg. eff. April 7, 1965. Amended by Laws 2001, c. 146, § 36, emerg. eff. April 30, 2001. Renumbered from § 1038 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001.

§2-18-401. Short title - Eastern Redcedar Management Act.

Sections 18-401 through 18-408 of this title shall be known and may be cited as the "Eastern Redcedar Management Act".

Added by Laws 2010, c. 454, § 2, eff. July 1, 2010. Amended by Laws 2018, c. 13, § 1, eff. Nov. 1, 2018 and Laws 2018, c. 43, § 1, eff. Nov. 1, 2018.

NOTE: Laws 2018, c. 13, § 1 and Laws 2018, c. 43, § 1 made identical amendments to this section.

§2-18-402. Legislative intent.

It is the intent of the Legislature to:

1. Create the Eastern Redcedar Directory;
2. Provide for a directory for Eastern Redcedar trees in the state, including but not limited to the location, ownership, level of infestation and average size of the trees;
3. Promote the harvesting of Eastern Redcedars through registration in the directory and a property owner and harvester information exchange; and
4. Promote marketing, research and education efforts concerning the Eastern Redcedar tree and Eastern Redcedar products.

Added by Laws 2010, c. 454, § 3, eff. July 1, 2010. Amended by Laws 2018, c. 13, § 2, eff. Nov. 1, 2018.

NOTE: Laws 2018, c. 43, § 2 repealed by Laws 2019, c. 25, § 1, emerg. eff. April 4, 2019.

§2-18-403. Repealed by Laws 2018, c. 13, § 7, eff. Nov. 1, 2018 and by Laws 2018, c. 43, § 7, eff. Nov. 1, 2018.

§2-18-404. Duties of the Oklahoma Department of Agriculture, Food, and Forestry.

A. The Oklahoma Department of Agriculture, Food, and Forestry shall consult with the Oklahoma Conservation Commission and the United States Department of Agriculture Natural Resources Conservation Service to establish procedures and standards and oversee the following:

1. The administration of the Eastern Redcedar Directory for Eastern Redcedar trees in the state. Private landowners in the state may register the location of their property, the level of infestation of Eastern Redcedar trees on the property, and average size of the trees on the property. The Department shall develop and implement a directory for landowners;

2. Promote the harvesting of Eastern Redcedar trees. Persons or entities involved in the harvesting of Eastern Redcedar trees or the manufacturing of products from Eastern Redcedar trees may register with the Department. The Department shall develop and implement a directory for harvesters and manufacturers;

3. Promote the development of new uses and markets for Eastern Redcedar trees and Eastern Redcedar products;

4. Promote marketing, research and education efforts concerning the Eastern Redcedar tree and Eastern Redcedar products;

5. Cooperate with any local, state, regional, or nationwide organization or agency engaged in work or activities consistent with the objectives of the Eastern Redcedar Management Act;

6. Assist communities located in any county in the state to organize and establish community-owned Eastern Redcedar projects in the community and to recruit and locate private for-profit Eastern Redcedar businesses in the community including but not limited to harvesting operations, biofuel plants, cedar oil manufacturing facilities, or other cedar product manufacturing facilities. The Department shall assist in securing financing, infrastructure and other resources. The Department shall also provide direction and assistance to the community-based projects and individually owned businesses on steps to take in order to qualify for existing sales tax credits and income tax credits;

7. Provide a process for the transfer of donated Eastern Redcedar trees from landowners to harvesters and manufacturers listed in the Department's directory; and

8. Take any other actions necessary to implement the Eastern Redcedar Management Act.

B. The Department and all landowners and harvesters shall comply with all applicable provisions of Article 16 of this title, known as the Oklahoma Forestry Code, when managing and harvesting Eastern Redcedar trees.

Added by Laws 2010, c. 454, § 5, eff. July 1, 2010. Amended by Laws 2018, c. 43, § 3, eff. Nov. 1, 2018.

NOTE: Laws 2018, c. 13, § 3 repealed by Laws 2019, c. 25, § 2, emerg. eff. April 4, 2019.

§2-18-405. Repealed by Laws 2018, c. 13, § 8, eff. Nov. 1, 2018 and by Laws 2018, c. 43, § 7, eff. Nov. 1, 2018.

§2-18-406. Harvesting of Eastern Redcedar trees.

Eastern Redcedar trees removed from lands owned by any state agency or any person or entity with authority to remove the trees from state-owned lands may be provided to harvesters listed in the Oklahoma Department of Agriculture, Food, and Forestry's directory in a manner consistent with Section 16-57 of this title.

Added by Laws 2010, c. 454, § 7, eff. July 1, 2010. Amended by Laws 2018, c. 13, § 4, eff. Nov. 1, 2018 and Laws 2018, c. 43, § 4, eff. Nov. 1, 2018.

NOTE: Laws 2018, c. 13, § 4 and Laws 2018, c. 43, § 4 made identical amendments to this section.

§2-18-407. Eastern Redcedar Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Eastern Redcedar Management Act to be designated the "Eastern Redcedar Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Department of Agriculture, Food, and Forestry from the state income tax checkoff as provided for in Section 18-408 of this title, the special license plate issued pursuant to Section 1135.5 of Title 47 of the Oklahoma Statutes, any state-appropriated funds, federal funds, donations, grants, contributions, and gifts from any public or private source. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department for the purposes set forth in the Eastern Redcedar Management Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2010, c. 454, § 8, eff. July 1, 2010. Amended by Laws 2012, c. 304, § 19; Laws 2018, c. 13, § 5, eff. Nov. 1, 2018 and Laws 2018, c. 43, § 5, eff. Nov. 1, 2018.

NOTE: Laws 2018, c. 13, § 5 and Laws 2018, c. 43, § 5 made identical amendments to this section.

§2-18-408. Contributing to Eastern Redcedar Revolving Fund - State income tax return.

A. Each individual taxpayer required to file a state income tax return who desires to contribute to the Eastern Redcedar Revolving Fund, as created in Section 18-407 of this title, may designate the contribution on the appropriate income tax form. The contribution may not increase or decrease the income or liability of the taxpayer and may be made by reducing the income tax refund of a taxpayer by the amount designated or by accepting additional payment from the taxpayer by the amount designated, whichever is appropriate.

B. 1. The Oklahoma Tax Commission shall include on each state individual income tax return form for tax years beginning after

December 31, 2010, an opportunity for the taxpayer to donate for the benefit of the Eastern Redcedar Revolving Fund. The instructions accompanying the income tax form shall be provided to the Oklahoma Tax Commission by the Oklahoma Department of Agriculture, Food, and Forestry and shall contain a description of the purpose for which the Eastern Redcedar Revolving Fund was established and information on the use of monies from the income tax contribution.

2. Taxpayers who are entitled to refunds shall have the refunds reduced by the amount designated by the taxpayer. The Oklahoma Tax Commission shall annually determine the total amount designated plus the amount received in excess payments and shall report the total amount to the Office of the State Treasurer. The State Treasurer shall credit the total amount to the Eastern Redcedar Revolving Fund created in Section 18-407 of this title at the earliest possible time.

C. The incremental cost of administration of contributions shall be paid out of the fund to the Oklahoma Tax Commission from amounts received pursuant to this section before funds are expended for the purposes of the fund.

Added by Laws 2010, c. 454, § 9, eff. July 1, 2010. Amended by Laws 2018, c. 13, § 6, eff. Nov. 1, 2018 and Laws 2018, c. 43, § 6, eff. Nov. 1, 2018.

NOTE: Laws 2018, c. 13, § 6 and Laws 2018, c. 43, § 6 made identical amendments to this section.

§2-19-1. State-federal cooperative agreement - Grading of fruits, nuts, and vegetables.

A. The Oklahoma Department of Agriculture, Food, and Forestry may enter into any cooperative agreement with the United States Department of Agriculture to certify or establish an inspection service for the purpose of grading fruits, nuts, and vegetables.

B. The terms and conditions of the cooperative agreement shall be the governing authority for the inspection service. The cooperative agreement shall include, but not be limited to, the establishment or certification of an inspection service and the grading of fruits, nuts, and vegetables.

C. To implement the terms of any state-federal cooperative agreement regarding the establishment or certification of an inspection service, the Department may employ personnel to oversee and supervise the inspection service.

D. Personnel of the inspection service shall not be employees of the state for any purpose and shall not be entitled to any state benefits including, but not limited to accrual of leave, insurance, longevity, retirement, unemployment, or workers compensation.

E. The legislature shall not appropriate funds for the operation of an inspection service established or certified to implement a cooperative agreement pursuant to this section. The legislature may

appropriate funds necessary for the Department to employ personnel to supervise and oversee an inspection service.

F. Inspection service activities conducted under a cooperative agreement pursuant to this section shall be self-financed. The inspection service shall charge a fee to any person who receives inspection services pursuant to the terms of a cooperative agreement. The fees shall be commensurate to the costs of the inspection service.

Added by Laws 2004, c. 155, § 1, emerg. eff. April 26, 2004.

§2-19-2. Airport - Import and export of livestock.

It is the intent of the Oklahoma Legislature that an airport in the State of Oklahoma apply and receive approval from the United States Department of Agriculture and the United States Customs and Border Patrol to provide international and domestic livestock and livestock products import and export functions. The cities of Oklahoma City and Tulsa and their respective airports, the Oklahoma Department of Agriculture, Food, and Forestry, the United States Department of Agriculture and the United States Customs and Border Patrol shall cooperate to achieve this intent. The Oklahoma Department of Agriculture, Food, and Forestry shall provide a progress report to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor no later than December 1, 2012.

Added by Laws 2011, c. 253, § 1, eff. Nov. 1, 2011.

§2-20-1. Legislative intent.

It is the intent of the Legislature that the law contained in the Oklahoma Swine Feeding Operations Act shall only apply to swine and operations which house swine.

Added by Laws 1998, c. 404, § 1, eff. Aug. 1, 1998. Renumbered from § 9-200 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2007, c. 31, § 1, eff. Nov. 1, 2007.

§2-20-2. Short title and purpose.

A. Sections 20-1 through 20-29 of this title shall be known and may be cited as the "Oklahoma Swine Feeding Operations Act".

B. The purpose of the Oklahoma Swine Feeding Operations Act is to provide for environmentally responsible construction and expansion of swine feeding operations and to protect the safety, welfare and quality of life of persons who live in the vicinity of a swine feeding operation.

Added by Laws 1969, c. 116, § 1. Amended by Laws 1997, c. 331, § 1, eff. Sept. 1, 1997. Renumbered from § 9-201 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2007, c. 31, § 2, eff. Nov. 1, 2007.

§2-20-3. Definitions.

A. Concentrated swine feeding operations are point sources subject to the license program established pursuant to the provisions of the Oklahoma Swine Feeding Operations Act.

B. As used in the Oklahoma Swine Feeding Operations Act:

1. "Affected property owner" means a surface landowner within:

- a. one (1) mile of the designated perimeter of a swine feeding operation which:
 - (1) does not meet the definition of a licensed managed feeding operation, or
 - (2) is previously unlicensed or an expanding licensed managed feeding operation with a capacity of two thousand (2,000) or less swine animal units, or
- b. two (2) miles of the designated perimeter of a licensed managed feeding operation or an expanding operation with a capacity of more than two thousand (2,000) swine animal units for which a license is being sought;

2. "Swine feeding operation" means a lot or facility where the following conditions are met:

- a. swine 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;

3. "Swine animal unit" means a unit of measurement for any swine feeding operation calculated by adding the following numbers: The number of swine weighing over twenty-five (25) kilograms, approximately fifty-five (55) pounds, multiplied by four-tenths (0.4), plus the number of weaned swine weighing under twenty-five (25) kilograms multiplied by one-tenth (0.1);

4. "Swine waste" means swine excrement, swine carcasses, feed wastes, process wastewaters or any other waste associated with the confinement of swine from a swine feeding operation;

5. "Swine Waste Management Plan" or "Nutrient Management Plan" means a written plan that includes a combination of conservation and management practices designed to protect the natural resources of the state prepared by an owner or operator of a swine feeding operation as required by the Department pursuant to the provisions of Section 20-10 of this title;

6. "Swine waste management system" means a combination of structures and nonstructural practices serving a swine feeding operation that provides for the collection, treatment, disposal, distribution, storage and land application of swine waste;

7. "Artificially constructed" means constructed by humans;

8. "Best Management Practices" means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the pollution of waters of the state as established by the Oklahoma Department of Agriculture, Food, and Forestry pursuant to Section 20-10 of this title;

9. "Board" means the State Board of Agriculture;

10. "Common ownership" includes but is not limited to any corporation, partnership or individual where the same owner has power or authority to manage, direct, restrict, regulate or oversee the operation or has financial control of the facility;

11. "Concentrated swine feeding operation" means:

- a. a licensed managed feeding operation,
- b. a swine feeding operation which meets the following criteria:
 - (1) more than the number of swine specified in any of the following categories are confined:
 - (a) 750 swine each weighing over 25 kilograms or approximately 55 pounds,
 - (b) 3,000 weaned swine each weighing under 25 kilograms, or
 - (c) 300 swine animal units, and
 - (2) either one of the following conditions are met:
 - (a) pollutants are discharged into waters of the state through an artificially constructed ditch, flushing system or other similar artificially constructed device, or
 - (b) pollutants are discharged directly into navigable waters which originate outside of and pass over, across or through the facility or otherwise come into direct contact with the swine confined in the operation.

Provided, however, that no swine feeding operation pursuant to this subparagraph is a concentrated swine feeding operation if the swine feeding operation discharges only in the event of a twenty-five-year, twenty-four-hour storm event,

- c. the Board determines that the operation is a significant contributor of pollution to waters of the state pursuant to Section 20-6 of this title, or
- d. any new swine feeding operation established after November 1, 2011, with more than one hundred (100) animal units;

12. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry;

13. "Designated perimeter" means the perimeter of any structure or combination of structures utilized to control swine waste until it can be disposed of in an authorized manner. Structures shall include

but not be limited to pits, burial sites, barns or roof-covered structures housing swine, composters, waste storage sites, or retention structures or appurtenances or additions thereto;

14. "Expanding operation" means:

- a. a facility that either increases its swine animal unit capacity to a number that causes the facility to initially meet the definition of a licensed managed feeding operation, or
- b. a licensed managed feeding operation that seeks to increase its licensed capacity in excess of five percent (5%) of the original facility's licensed capacity;

15. "Facility" means any place, site, or location or part thereof where swine are kept, handled, housed, or otherwise maintained and processed and includes but is not limited to buildings, lots, pens, and swine waste management systems;

16. "Interested party" means an affected property owner found to meet the burden of proof pursuant to the provisions of Section 20-8 of this title;

17. "Land application" means the spreading on, or incorporation of swine waste into the soil mantle primarily for beneficial purposes;

18. "Licensed managed feeding operations" means a swine feeding operation primarily using a liquid swine waste management system, where swine are primarily housed in a roof-covered structure and which has more than the number of swine specified in any of the following categories confined:

- a. 2,500 swine each weighing over 55 pounds,
- b. 10,000 weaned swine each weighing under 55 pounds, or
- c. any combination of swine weighing over 55 pounds or under 55 pounds which would equal one thousand (1,000) swine animal units;

19. "Liquid swine waste management system" means any swine waste management system which uses water as the primary carrier of swine waste into a primary retention structure;

20. "Nutrient-limited watershed" means a watershed of a water body which is designated as "nutrient-limited" in the most recent Oklahoma Water Quality Standards;

21. "Nutrient-vulnerable groundwater" means groundwater which is designated "nutrient-vulnerable" in the most recent Oklahoma Water Quality Standards;

22. "Odor Abatement Plan" means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce odor as established by the Department pursuant to Section 20-11 of the Oklahoma Swine Feeding Operations Act;

23. "Occupied residence" means a habitable structure designed and constructed for full-time occupancy in all weather conditions and:

- a. is not readily mobile,
- b. is connected to a public or permanent source of electricity and a permanent waste disposal system or public waste disposal system, and
- c. is occupied as a residence;

24. "Pollution Prevention Plan" means a written plan to control the discharge of pollutants which has been prepared in accordance with industry-acceptable engineering and management practices by the owner or operator of a swine feeding operation as required pursuant to Section 20-9 of this title;

25. "Process wastewater" means any water utilized in the facility that comes into contact with any manure, litter, bedding, raw, intermediate, or final material or product used in or resulting from the production of swine and any products directly or indirectly used in the operation of a facility, such as spillage or overflow from swine watering systems; washing, cleaning, or flushing pens, barns, manure pits, direct contact, swimming, washing or spray cooling of swine; and dust control and any precipitation which comes into contact with swine or swine waste;

26. "Retention structures" means, but is not limited to, all collection ditches, conduits and swales for the collection of runoff water and process wastewater, and basins, ponds and lagoons or other structures used to store swine wastes;

27. "Spill" means the release from a swine feeding operation of any process wastewater or manure that does not reach waters of the state;

28. "Waste facility" means any structure or combination of structures utilized to control swine waste until it can be disposed of in an authorized manner. The structures shall include but not be limited to pits, burial sites, barns or roof-covered structures housing swine, composters, waste storage sites, or retention structures or appurtenances or additions thereto; and

29. "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 Clean Water

Act or rules promulgated pursuant thereto, are not waters of the state.

Added by Laws 1969, c. 116, § 2. Amended by Laws 1973, c. 70, § 1, emerg. eff. April 27, 1973; Laws 1981, c. 77, § 1, eff. Oct. 1, 1981; Laws 1997, c. 331, § 2, eff. Sept. 1, 1997; Laws 1998, c. 404, § 2, eff. Aug. 1, 1998. Renumbered from § 9-202 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2006, c. 128, § 2, eff. Nov. 1, 2006; Laws 2007, c. 31, § 3, eff. Nov. 1, 2007; Laws 2013, c. 123, § 1, eff. Nov. 1, 2013; Laws 2017, c. 90, § 1, eff. Nov. 1, 2017.

§2-20-4. Rulemaking and employing authority.

The State Board of Agriculture is authorized to promulgate rules for the administration, implementation, and enforcement of the Oklahoma Swine Feeding Operations Act. For the performance of its duties and responsibilities, the Board is authorized to employ such personnel and agents as may be required within the funds available. Added by Laws 1969, c. 116, § 3. Amended by Laws 1997, c. 331, § 3, eff. Sept. 1, 1997. Renumbered from § 9-203 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2007, c. 31, § 4, eff. Nov. 1, 2007.

§2-20-5. Repealed by Laws 2013, c. 118, § 25, eff. Nov. 1, 2013.

§2-20-6. Licensure - Modification - Designation of operations.

A. 1. Any swine feeding operation meeting the criteria defining a concentrated swine feeding operation shall be required to obtain a license to operate pursuant to the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto.

2. No swine feeding operation which voluntarily obtains a license pursuant to the Oklahoma Swine Feeding Operations Act shall be considered to be a concentrated swine feeding operation unless the operation meets the definition of concentrated swine feeding operation.

3. Any other swine feeding operation, regardless of the number of swine, shall only be required to be licensed pursuant to the provisions of the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto if the State Board of Agriculture determines the operation to be a significant contributor of pollution to waters of the state.

B. 1. Two or more swine feeding operations under common ownership are considered, for the purposes of licensure, to be a single swine feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.

2. A licensed managed feeding operation shall be required to seek a modification of its license for any increase in excess of five percent (5%) of the original facility's licensed capacity.

C. An expanding operation shall be required to seek a modification of its license prior to expansion.

D. 1. The Board may make a case-by-case designation of concentrated swine feeding operations pursuant to this section. Any swine feeding operation may be designated as a concentrated swine feeding operation if it is determined to be a significant contributor of pollution to the waters of the state. In making this designation, the Board shall consider the following factors:

- a. the size of the swine feeding operation and the amount of wastes reaching waters of the state,
- b. the location of the swine feeding operation relative to waters of the state,
- c. the means of conveyance of swine waste and wastewater into waters of the state,
- d. the method of disposal for swine waste and process wastewater disposal,
- e. the slope, vegetation, rainfall and other factors affecting the likelihood or frequency of discharge of swine wastes and process wastewaters into waters of the state, and
- f. other factors relative to the significance of the pollution problem sought to be regulated.

2. In no case shall an application for a license be required from a swine feeding operation pursuant to this subsection until there has been an on-site inspection of the operation and a determination by the Oklahoma Department of Agriculture, Food, and Forestry that the operation is a concentrated swine feeding operation. Should the Department determine that the operation is a concentrated swine feeding operation, the Department shall notify the operation of the determination and of an opportunity for the owner or operator of the facility to request an administrative hearing on the issue.

3. Process wastewater in the overflow may be discharged to navigable waters whenever rainfall events, either chronic or catastrophic, cause an overflow of process wastewater from a retention structure properly designed, constructed and operated to contain all process wastewaters plus the runoff from a twenty-five-year, twenty-four-hour rainfall event for the location of the point source. There shall be no effluent limitations on discharges from a waste facility constructed and properly maintained to contain the twenty-five-year, twenty-four-hour storm event; provided, the proper design, construction and operation of the retention structure shall include but not be limited to one (1) foot of free board.

E. No new concentrated swine feeding operation or expansion of a concentrated swine feeding operation requiring a license pursuant to the Oklahoma Swine Feeding Operations Act shall be constructed or placed in operation unless final design plans, specifications and a

Pollution Prevention Plan developed pursuant to Section 20-9 of this title have been approved by the Department.

F. No new licensed managed feeding operation or expanding operation shall be constructed until a building permit for such facility or expansion has been issued by the Department. No new licensed managed feeding operation or expanding operation shall be placed in operation until a license for the facility or a modification for an existing license has been issued by the Department.

G. When requesting a modification of a license, a licensed managed feeding operation shall comply with all notice and hearing requirements as specified by this section and rules promulgated by the State Board of Agriculture. In its request for a modification of a license, a licensed managed feeding operation shall provide all information specified in subsection G of Section 20-7 of this title.

H. Any hearings regarding modification of a license shall focus on the modifications being proposed by the licensed managed feeding operation.

I. A decision to deny modification of a license shall have no impact on the original license.

Added by Laws 1997, c. 331, § 5, eff. Sept. 1, 1997. Amended by Laws 1998, c. 404, § 5, eff. Aug. 1, 1998. Renumbered from § 9-204.1 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2007, c. 64, § 1, eff. Dec. 1, 2007; Laws 2008, c. 3, § 1, emerg. eff. Feb. 28, 2008; Laws 2011, c. 215, § 1, eff. Nov. 1, 2011; Laws 2017, c. 90, § 2, eff. Nov. 1, 2017.

NOTE: Laws 2007, c. 31, § 6 repealed by Laws 2008, c. 3, § 2, emerg. eff. Feb. 28, 2008.

§2-20-7. Application for license.

A. The State Board of Agriculture shall cause to be prepared and available, for any person desiring or required to apply for a license to operate a new or previously unlicensed swine feeding operation or expanding operation, the necessary forms and applications.

B. The application for a license to operate a new or previously unlicensed swine feeding operation or expanding operation shall contain, as a minimum, the following information:

1. Name and address of the owner and operator of the facility;
2. Name and address of the swine feeding operation;
3. Capacity in swine animal units, and number and type of swine housed or confined;
4. A diagram or map and legal description showing geographical location of the facility on which the perimeters of the facility are designated, location of waters of the state, including, but not limited to, drainage from the facility, swine waste storage facilities and land application sites owned or leased by the applicant;

5. A copy of the Pollution Prevention Plan containing a Swine Waste Management Plan, Best Management Practices, Odor Abatement Plan or such other plan authorized by the Oklahoma Swine Feeding Operations Act and approved by the Department;

6. A copy of the written waiver by an adjacent property owner to the facility releasing specified setback requirements as provided by Sections 20-19 and 20-21 of this title; and

7. Any other information deemed necessary by the Oklahoma Department of Agriculture, Food, and Forestry to administer the provisions of the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto.

C. 1. An application for renewal of a license to operate a swine feeding operation shall be considered to be properly filed when the Department has received a completed renewal application and payment of fees from the applicant.

2. If the application for renewal is denied, written notification of the denial and an opportunity for an administrative hearing on the denial shall be given to the applicant by the Department. The notification shall set forth the reasons for the denial, steps necessary to meet the requirements for issuance of the renewal license and the opportunity for the applicant to request an administrative hearing.

D. No new licensed managed feeding operation or expanding operation shall be constructed until a building permit for such facility or expansion has been issued by the Department. No new licensed managed feeding operation shall be placed in operation until a license for the facility or expansion has been issued by the Department.

E. For transfer of a license to a new owner or operator, the following conditions shall be met:

1. The new owner or operator shall submit to the Department a transfer application, attaching any change of conditions resulting from the transfer of ownership or operation;

2. After receipt of the information required, the Department shall review the information, and within sixty (60) days, issue approval or denial of the transfer. Transfer of a license shall be denied only if:

- a. the new owner or operator cannot comply with the requirements of transfer,
- b. the Department finds a material or substantial change in conditions since the issuance of the original license to operate the swine feeding operation,
- c. failure of the new owner or operator to meet any other conditions or requirements for compliance established by the Department pursuant to the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto, or

- d. the new owner or operator has failed to meet the requirements of Section 20-25 of this title; and

3. If a transfer is denied, written notification of the denial and an opportunity for an administrative hearing on the denial shall be given to the applicant for a transfer license by the Department. The notification shall set forth the reasons for the denial, steps necessary to meet the requirements for a transfer license, and the opportunity for the applicant to request an administrative hearing.

F. Any suspension or revocation or nonrenewal of a license issued pursuant to the Oklahoma Swine Feeding Operations Act by the Board shall be made in accordance with Section 20-25 of this title.

G. In addition to other information required for issuance of a new or transfer license, an application for a new or transfer license for a concentrated swine feeding operation shall contain the following information:

- 1. a. A statement of ownership.

- (1) If the applicant is a firm or partnership, the name and address of each member thereof shall be included in the application.

- (2) If the applicant is a corporation, the name and address of the corporation and the name and address of each officer and registered agent of the corporation shall be included in the application.

- (3) If the applicant is a partnership or other legal entity, the name and address of each partner and stockholder with an ownership interest of ten percent (10%) or more shall be included in the statement.

- b. The information contained in the statement of ownership shall be public information and shall be available upon request from the Board;

2. The name and address of the management, if the management is not the applicant and is acting as agent for the applicant;

- 3. a. An environmental history from the past three (3) years of any concentrated animal feeding operation or concentrated swine feeding operation established and operated by the applicant or any other operation with common ownership in this state or any other state. The environmental history shall include but not be limited to all citations, administrative orders or penalties, civil injunctions or other civil actions, criminal actions, past, current and ongoing, taken by any person, agency or court relating to noncompliance with any environmental law, rule, agency order, or court action relating to the operation of an animal feeding operation or swine feeding operation.

- b. A copy of all records relating to the environmental history required by this paragraph shall accompany the application.
- c. Noncompliance with a final agency order or final order or judgment of a court of record which has been set aside by a court on appeal of the final order or judgment shall not be considered a final order or judgment for the purposes of this subsection;

4. Environmental awards or citations received or pollution prevention or voluntary remediation efforts undertaken by the applicant; and

5. Any other information or records required by the Department for purposes of implementing the Oklahoma Swine Feeding Operations Act or rules promulgated pursuant thereto.

H. 1. All employees of a proposed licensed managed feeding operation whose duties include treatment, storage, or application of swine waste shall provide proof of certification of satisfactory completion of formal education or training in the areas of waste management and odor control. Proof of certification of a minimum of nine (9) hours of training and education shall be submitted either with the license application or within six (6) months of the date of the application for the license.

2. All employees of a licensed managed feeding operation whose duties include treatment, storage or application of animal waste shall provide proof of certification of satisfactory completion of formal education or training in the areas of waste management and odor control.

3. The Department shall require a minimum of three (3) hours of annual refresher training for any employee of a licensed managed feeding operation whose duties include treatment, storage, or application of swine waste.

4. After completing eighteen (18) hours of training, an employee shall be exempt from the annual training requirement, and shall be required to complete three (3) hours of training every three (3) years.

5. Appropriate curricula and course content shall be developed by the licensed managed feeding operation and submitted to the Department for approval.

6. Failure to obtain the prerequisite nine (9) hours of training and any continuing education training as required in this subsection shall be deemed a violation of the Oklahoma Swine Feeding Operations Act.

I. 1. In addition to other penalties as may be imposed by law, any person who knowingly makes any false statement, representation, or certification in, omits material data from, or tampers with any application for a license, or notice relating to the determination of affected property owners, shall, upon conviction thereof, be guilty

of a misdemeanor and may be subject to a fine of not more than Ten Thousand Dollars (\$10,000.00) for each violation. In addition, the Department shall deny licensure to the applicant or may require submission of a new application.

2. The responsibility for ensuring that all affected property owners are notified pursuant to the provisions of this section shall be upon the applicant.

Added by Laws 1969, c. 116, § 5. Amended by Laws 1997, c. 331, § 6, eff. Sept. 1, 1997; Laws 1998, c. 404, § 6, eff. Aug. 1, 1998.

Renumbered from § 9-205 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2007, c. 31, § 7, eff. Nov. 1, 2007; Laws 2012, c. 35, § 1, eff. Nov. 1, 2012; Laws 2016, c. 228, § 4, eff. Nov. 1, 2016.

§2-20-8. Notice and hearing requirements.

A. 1. Any person applying for a license for a new or expanding swine feeding operation shall comply with the notice and hearing requirements as specified by this section and rules promulgated by the State Board of Agriculture.

2. Notice requirements shall include notice to affected property owners by certified mail, return receipt requested pursuant to subsection C of this section and public notice pursuant to subsection D of this section.

B. 1. After submission of a completed application as provided by the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto, the Oklahoma Department of Agriculture, Food, and Forestry shall have sixty (60) working days to review the application for a new or expanding operation for physical and technical suitability.

2. a. After review of the application the Department may request additional information from the applicant. Upon receipt of the additional information the Department shall then have an additional thirty (30) working days to review the additional information.

b. On or before the expiration of an additional thirty-working-day period, the Department shall make a determination as to whether the application is complete and in compliance with all statutory requirements and relevant rules of the Department or request additional information pursuant to subparagraph a of this paragraph.

C. 1. After the Department has determined that the application is complete, the Department shall require the applicant to notify all affected property owners that a completed application is on file with the Department. Notice shall be sent by certified mail, return receipt requested. The notice shall state that an application for a new or expanding swine feeding operation has been submitted to the

Department and has been deemed to be complete, the location of the facility, that a hearing may be requested within fifteen (15) working days from the receipt of notice by the affected property owner and that a copy of the completed application is available for public review pursuant to paragraph 3 of subsection D of this section.

2. The State Board of Agriculture shall not act on the application until the expiration of the time period set forth in paragraph 1 of subsection G of this section. If a hearing is requested pursuant to paragraph 1 of subsection G of this section, the Board shall not take action on the application until the hearing process is complete.

3. Establishment of property usage is the date the swine feeding operation application was made available for public review versus date of initial construction or placement of occupied residence and shall be given consideration when determining a contested matter between an applicant and an affected property owner on issues other than pollution of the waters of the state.

D. 1. In addition to the individual notice, the Department shall require the applicant to give public notice of the opportunity to comment on the granting of the license.

2. The public notice for a new or expanding operation shall be published as a legal notice prior to the date the application is available for public viewing, in at least one newspaper of general circulation in the county where the proposed facility or expanding operation is to be located.

3. The notice shall identify locations where the application shall be available for viewing. The locations shall include the office of the Department and a specific public location in the county where the proposed facility or expanding operation is to be located.

4. The application shall be available for public review during normal business hours. The copies of the application posted for public viewing shall be complete except for proprietary provisions otherwise protected by law and shall remain posted during normal business hours for at least twenty (20) working days after notice is published.

5. The Department, as necessary, may hold public meetings at a location convenient to the population center nearest the proposed facility or expanding operation to address public comments on the proposed facility or expanding operation.

E. Prior to the issuance of any license for a swine feeding operation, or expanding operation, the Department shall require the applicant to submit:

1. Documentation certifying notice has been issued to all affected property owners. A map of all affected property owners and the corresponding mailing list shall be submitted with each application; and

2. Proof of publication notice of a new or expanding application for a swine feeding operation license.

F. If no hearing is requested within the time periods set forth in paragraph 1 of subsection G of this section, the application shall be submitted to the State Board of Agriculture for consideration and action.

G. 1. An affected property owner may request a hearing prior to final approval of the application. All requests for a hearing shall be filed with the Department within fifteen (15) working days after the receipt of the notice by the affected property owner. In requesting a hearing an affected property owner shall state in the request:

- a. the name and address of the affected property owner and proof of standing by showing a surface ownership interest in the affected property, and
- b. specific allegations showing that the proposed facility or expanding operation may have a direct, substantial and immediate effect upon a legally protected interest of the affected property owner. The allegations shall address with specificity the information contained within the application for licensure. Furthermore, the allegations shall be limited to demonstrating how the application is deficient, how the deficiencies have a direct effect on a legal interest of the affected property owner, and how the applicant has failed to show that the application should be granted. The allegations shall also address the physical and technical suitability of the proposed facility.

2. If any of the affected property owners request an administrative hearing pursuant to paragraph 1 of this subsection and all information listed in subparagraphs a and b of paragraph 1 of this subsection is found to be complete and adequate in the request for hearing, a preliminary hearing shall be scheduled by the Department at a reasonable time within sixty (60) calendar days. Should the affected property owner fail to provide any of the information required in the request for hearing, the affected property owner shall have ten (10) working days during which any deficiencies may be cured after receipt of notice from the Department of the failure. All affected property owners shall be considered parties to the preliminary hearing scheduled by the Department.

H. 1. The preliminary hearing shall be held at the Oklahoma Department of Agriculture, Food, and Forestry before an administrative law judge.

2. There shall be a rebuttable presumption on the part of the applicant that the application in question is complete and in compliance with all applicable statutes and rules.

3. It shall be the burden of the affected property owner(s) to present an offer of proof showing by a preponderance of the evidence:

- a. that the facility has a direct, substantial, and immediate effect upon a legally protected interest, and
- b. that the direct, substantial, and immediate effect upon a legally protected interest arises directly from a deficiency in the application or from the physical and technical suitability of the proposed facility.

4. The administrative law judge after all evidence is presented by the affected property owner(s) shall afford the applicant an opportunity to respond to and rebut the allegations presented and to show how the affected property owner(s) failed to meet the standards set forth in subparagraphs a and b of paragraph 3 of this subsection.

5. Upon completion of the preliminary hearing, the administrative law judge shall have twenty (20) working days in which to issue an order granting or denying the affected property owner(s) a full administrative hearing. If an affected property owner is denied a full administrative hearing, the administrative law judge shall issue a written recommended order containing specific findings of fact and conclusions of law on which the decision is based.

6. If the administrative law judge finds the affected property owner(s) failed to meet the burden of proof set forth in paragraphs 2, 3, and 4 of this subsection the application shall be sent to the State Board of Agriculture along with a copy of the recommended order of the administrative law judge for consideration and action.

7. If the administrative law judge finds the affected property owner(s) met the burden of proof set forth in paragraph 3 of this subsection, then a full administrative hearing shall be scheduled in accordance with the Administrative Procedures Act.

8. The administrative law judge may separately grant or deny a full administrative hearing for each affected property owner when more than one is party to the preliminary hearing.

I. 1. An affected property owner meeting the burden of proof pursuant to subsection H of this section shall be entitled to a full administrative hearing pursuant to the Administrative Procedures Act. Only those affected property owners found meeting the burden of proof pursuant to subsection H of this section are entitled to a full administrative hearing.

2. The scheduling conference for the hearing shall be held by the Department at a reasonable time within thirty (30) working days after the administrative law judge has issued a written order. All interested parties may be joined as parties to the hearing.

3. An affected property owner may at any time waive its right to a hearing. If an affected property owner waives its right to a hearing, a signed and notarized document shall be filed with the administrative law judge stating the affected property owner waived its right to a hearing, did so without force or coercion, understands

it is also waiving its right to any further hearings provided for under this section or the Administrative Procedures Act, and that the waiver shall be with prejudice. The waiver of right to a hearing shall be admissible as evidence in any court of the State of Oklahoma as evidence that the affected property owner waived its rights to any additional hearings to which it may otherwise have been entitled.

4. At the hearing the administrative law judge shall hear testimony and accept evidence pertaining to the physical and technical suitability of the proposed facility or expanding operations and deficiencies contained in the original application for the license. Based on these grounds it shall be the burden of the interested party to show by clear and convincing evidence that the proposed facility will have a direct, substantial, and immediate effect upon a legally protected interest of the interested party. Furthermore, there shall be a rebuttable presumption that the application is complete and in compliance with the relevant statutes and rules.

5. Any evidence presented at the administrative hearing shall be directly related to allegations and evidence previously presented by the affected property owner(s) during the preliminary hearing. Evidence not meeting this criteria shall only be admitted by the administrative law judge upon a finding that:

- a. the evidence was unavailable to the interested party prior to the preliminary hearing, and
- b. the interested party exercised due diligence to discover and present all relevant evidence at the preliminary hearing, and
- c. reasonable efforts to discover the information would not have led to its discovery prior to the preliminary hearing, or
- d. the applicant willfully concealed evidence or information that would likely have assisted the interested party in presenting its case at the preliminary hearing.

6. At the hearing, the interested party shall be afforded a reasonable opportunity to present evidence and argument in support of the allegations identified in the preliminary hearing and the applicant shall be afforded a reasonable opportunity to present evidence and argument to controvert those allegations.

7. The administrative hearing held pursuant to the provisions of this subsection shall comply with the Administrative Procedures Act and rules promulgated by the Board.

Added by Laws 1997, c. 331, § 7, eff. Sept. 1, 1997. Amended by Laws 1998, c. 404, § 7, eff. Aug. 1, 1998. Renumbered from § 9-205.1 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2006, c. 129, § 2, eff. Nov. 1, 2006; Laws 2007, c. 31, § 8, eff. Nov. 1, 2007; Laws 2013, c. 123, § 2, eff. Nov. 1, 2013.

§2-20-9. Pollution Prevention Plan.

A. A Pollution Prevention Plan shall be developed by each licensed managed feeding operation prior to the submission of an application pursuant to the provisions of this section and rules promulgated by the State Board of Agriculture pursuant thereto. The Pollution Prevention Plan shall include, but not be limited to, provisions for documentation of structural controls, documentation of Best Management Practices, an approved plan for the disposal of swine waste and recordkeeping provisions.

B. A swine feeding operation licensed pursuant to the provisions of the Oklahoma Swine Feeding Operations Act, other than a licensed managed feeding operation, shall develop a Pollution Prevention Plan or may substitute equivalent measures contained in a site-specific Swine Waste Management Plan prepared pursuant to Section 20-10 of this title. Design and construction criteria developed by the United States Department of Agriculture Natural Resources Conservation Service may be substituted for the documentation of design capacity and construction requirements.

C. 1. The Pollution Prevention Plan shall be signed by the owner or as otherwise authorized by the Oklahoma Department of Agriculture, Food, and Forestry and a copy shall be retained on-site.

2. The swine feeding operation shall amend the Pollution Prevention Plan and obtain approval of the Department prior to any change in design, construction, operation or maintenance, which has significant effect on the potential for the discharge of pollutants to the waters of the state.

D. If, after reviewing the Pollution Prevention Plan, the Department determines that the Plan does not meet one or more of the minimum requirements, the swine feeding operation shall make and implement appropriate changes to the Plan as required by the Department pursuant to the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto.

E. The Pollution Prevention Plan shall provide and require presite approval by Departmental personnel prior to construction. During construction, the Department shall monitor the construction process as deemed necessary by the Department in an attempt to verify the construction of the facility is done according to plans and acceptable engineering standards to reduce or eliminate the potential of pollution.

F. In addition to other requirements specified by this section, the Pollution Prevention Plan shall include but not be limited to:

1. A description of potential sources, activities and materials which may reasonably be expected to or could potentially add pollutants to runoff from the facility;

2. A map, indicating an outline of the drainage area of the facility, and each existing structural control measure designed to

reduce pollutants in wastewater and precipitation runoff in all surface waters of the state;

3. A spill contingency plan for potential pollutants;

4. All existing sampling data of groundwater, nitrate and coliform bacteria levels, soil tests from land application sites and swine waste nutrient sampling;

5. A description of management controls appropriate for the facility. The management controls shall include, but not be limited to:

- a. the location and a description of existing structural and nonstructural controls,
- b. documentation of retention structure capacity and the assumptions and calculations used in determining the appropriate volume capacity, and
- c. a description of the design standards for the retention facility embankments;

6. A description of the design standards for any retention facilities;

7. Training requirements for employees;

8. Documentation relating to any hydrologic connection between the contained wastewater and waters of the state which complies with Section 20-12 of this title; and

9. Requirements that all irrigation systems into which any swine waste will be injected shall be equipped as specified by Section 20-13 of this title.

G. The Oklahoma Department of Agriculture, Food, and Forestry shall develop a record retention schedule for the following records:

1. Water level in the retention structure;
2. Daily precipitation records from on-site rain gauge;
3. Incident reports such as spills and other discharges;
4. Inspection and maintenance reports;
5. Findings from annual inspections of the entire facility;
6. Log of preventive maintenance and employee training that was completed;

7. Log of removal of swine waste sold or given to other persons for disposal;

8. Other specific information deemed necessary by the Department to implement the provisions of the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto;

9. Copy of general permit issued by the federal Environmental Protection Agency if applicable, a copy of the completed Pollution Prevention Plan, and other specific records deemed necessary by the Department to implement the provisions of the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto; and

10. The notarized statement signed by the applicant accepting full responsibility for properly closing all waste retention structures pursuant to subsection I of this section.

H. Any analyses required by the provisions of the Oklahoma Swine Feeding Operations Act or rules promulgated pursuant thereto shall be performed by a qualified independent testing laboratory certified by the Department of Environmental Quality and approved by the Department.

I. The applicant shall sign a notarized statement accepting full responsibility for properly closing all waste retention structures if the facility ceases to function or is ordered to close by action of the Department. When a license is transferred, the new owner or lessee shall submit a signed notarized statement accepting full responsibility for properly closing all waste retention structures if the facility ceases to function or is ordered to close by action of the Department.

Added by Laws 1997, c. 331, § 8, eff. Sept. 1, 1997. Amended by Laws 1998, c. 404, § 8, eff. Aug. 1, 1998. Renumbered from § 9-205.2 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2007, c. 31, § 9, eff. Nov. 1, 2007; Laws 2012, c. 38, § 1, eff. Nov. 1, 2012.

§2-20-10. Best Management Practices - Swine Waste Management Plans.

A. 1. All licensed managed feeding operations shall utilize Best Management Practices meeting the conditions and requirements established by subsection B of this section and by rules promulgated by the State Board of Agriculture pursuant to the Oklahoma Swine Feeding Operations Act.

2. Swine feeding operations licensed pursuant to the provisions of the Oklahoma Swine Feeding Operations Act other than licensed managed feeding operations shall utilize Best Management Practices, or may substitute for best management practice equivalent measures contained in a site-specific Swine Waste Management Plan meeting the conditions and requirements established by subsection C of this section and by rules promulgated by the Board pursuant to the Oklahoma Swine Feeding Operations Act.

B. The criteria for Best Management Practices shall be promulgated by rule by the Board, based upon existing physical and economic conditions, opportunities and constraints and shall include, but not be limited to, the following:

1. There shall be no discharge of process wastewater to waters of the state except in accordance with the provisions of the Oklahoma Swine Feeding Operations Act;

2. Swine waste shall be isolated from outside surface drainage by ditches, dikes, berms, terraces or other such structures except for a twenty-five-year, twenty-four-hour rainfall event;

3. No waters of the state shall come into direct contact with the swine confined on the swine feeding operation;

4. Swine waste handling, treatment, management and removal shall:

- a. not create an environmental or a public health hazard,
- b. not result in the contamination of public or private drinking water supplies,
- c. conform with Oklahoma Water Quality Standards,
- d. comply with the Odor Abatement Plan for licensed managed feeding operations and shall not otherwise create unnecessary and unreasonable odors. Odors are unnecessary and unreasonable if odors may be reduced by more efficient management practices at a reasonable expense,
- e. not violate any state or federal laws relating to endangered or threatened species of plant, fish or wildlife, or to migratory birds,
- f. conform to the Pest Management Plans for licensed managed feeding operations as required by rules promulgated by the State Board of Agriculture,
- g. conform to such other handling, treatment and management and removal requirements deemed necessary by the Oklahoma Department of Agriculture, Food, and Forestry to implement the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto, and
- h. ensure that watersheds and groundwater are adequately protected;

5. If, for any reason, there is a discharge other than a spill of less than one hundred (100) gallons, the licensee is required to make immediate notification to the Department. The report of the discharge shall include:

- a. a description and cause of the discharge, including a description of the flow path to the receiving water body,
- b. an estimation of the flow rate and volume discharged,
- c. the period of discharge, including exact dates and times, and if not already corrected, the anticipated time the discharge is expected to continue,
- d. steps taken to reduce, eliminate and prevent recurrence of the discharge, and
- e. test results for fecal coliform bacteria, five-day biochemical oxygen demand (BOD5), total suspended solids (TSS), ammonia nitrogen, total Kjeldahl nitrogen (TKN), any pesticides which the operator has reason to believe could be in the discharge, or other parameters as required by the Department which the Department has reason to believe could be in the discharge;

6. Notwithstanding the provisions of paragraph 5 of this subsection, any spill that leaves the property owned or controlled by

the licensee shall be reported to the Department regardless of total number of gallons spilled; and

7. The Department shall maintain records of all discharges and shall separately maintain records of all spills.

C. The Swine Waste Management Plan shall include at a minimum:

1. Swine waste removal procedures;
2. Records of inspections of retention structures, including, but not limited to, specific measurement of wastewater level;
3. All calculations in determining land application rates, acreage and crops for the land application rate of both solid and liquid swine wastes on land owned or controlled by the licensee;
4. Requirements including that:
 - a. (1) land application of swine waste shall not exceed the nitrogen uptake of the crop coverage or planned crop planting with any land application of wastewater or manure. Where local water quality is threatened by phosphorous, in no case shall the applicant or licensee exceed the application rates in the most current Natural Resources Conservation Service publication titled Waste Utilization Standard, and
 - (2) timing and rate of applications shall be in response to crop needs, expected precipitation and soil conditions,
 - b. land application practices shall be managed so as to reduce or minimize:
 - (1) the discharge of process water or swine waste to waters of the state,
 - (2) contamination of waters of the state, and
 - (3) odor,
 - c. facilities including waste retention structures, waste storage sites, ponds, pipes, ditches, pumps, and diversion and irrigation equipment shall be maintained to ensure the ability to fully comply with the terms of the Oklahoma Swine Feeding Operations Act, and
 - d. adequate equipment and land application area shall be available for removal of waste and wastewater as required to maintain the proper operating volume of the retention structure; and

5. Other information deemed necessary by the Department to administer the provisions of the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto.

D. Records shall be maintained of all swine wastes applied on land owned or controlled by the licensee, and sold or given to other persons for disposal.

E. If the swine waste from a licensed managed feeding operation is sold or given to other persons for land application or disposal,

the licensed managed feeding operation shall maintain a log of: date of removal from the swine feeding operation; names of such other persons; and amount, in wet tons, dry tons or cubic yards, of swine waste removed from the swine feeding operation.

F. 1. If the swine waste is to be land applied by other persons, a licensed managed feeding operation shall make available to such other person the most current sample analysis of the swine waste.

2. In addition, the licensed managed feeding operation shall notify, in writing, any person to whom the swine waste is sold or given of the land application disposal requirements for swine waste as specified by the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto.

3. Any person who obtains swine waste from a licensed managed feeding operation for land application shall keep the following records that shall be maintained for a period of three (3) years and provided to the Department upon request:

- a. a copy of the sample analysis of the swine waste provided by the licensed managed feeding operation,
- b. a copy of the written notification of requirements for swine waste land application requirements provided by the licensed managed feeding operation to the person obtaining the swine waste,
- c. current soil test results,
- d. swine waste application records, rates, and date of application, and
- e. any other record required by the Department.

4. Any person who obtains swine waste from a licensed managed feeding operation for land application shall certify to the Department that the person agrees to accept the swine waste, has knowledge of the law and rules regarding land application of swine waste, and agrees to follow the law and rules regarding the land application of swine waste.

G. Soils in areas in which swine waste is applied shall be analyzed, annually, for phosphates, nitrates and soil pH prior to the first application of the swine waste in the calendar year. A copy of the results of the analysis shall be submitted to the Department upon request by the Department. Such analysis shall be retained by the swine feeding operation as long as the facility is in operation.

H. Every swine feeding operation licensed pursuant to the provisions of the Oklahoma Swine Feeding Operations Act shall develop a plan approved by the Department for the disposal of carcasses associated with normal mortality.

1. Dead swine shall be disposed of in accordance with a carcass disposal plan developed by the applicant or licensee and approved by the Department.

2. The plan shall include provisions for the disposal of carcasses associated with normal mortality, with emergency disposal when a major disease outbreak or other emergency results in deaths significantly higher than normal mortality rates and other provisions which will provide for a decrease in the possibility of the spread of disease and prevent the contamination of waters of the state. The plan shall comply with rules promulgated by the Department. Added by Laws 1997, c. 331, § 9, eff. Sept. 1, 1997. Amended by Laws 1998, c. 404, § 9, eff. Aug. 1, 1998. Renumbered from § 9-205.3 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2006, c. 128, § 3, eff. Nov. 1, 2006; Laws 2007, c. 31, § 10, eff. Nov. 1, 2007; Laws 2009, c. 57, § 1, eff. Nov. 1, 2009.

§2-20-11. Odor Abatement Plans.

A. An Odor Abatement Plan shall be developed by each licensed managed feeding operation prior to the submission of an application pursuant to the provisions of this section and rules promulgated by the State Board of Agriculture pursuant thereto. The Odor Abatement Plan shall include, but not be limited to, provisions for documentation of structural controls, documentation of Best Management Practices, odor abatement, and recordkeeping provisions.

B. 1. The Odor Abatement Plan shall include specific methods of odor reduction which shall be tailored to each facility and created to address each cause of odor listed in paragraph 2 of this subsection.

2. The Odor Abatement Plan shall address methods for reducing odors in relationship to swine maintenance, waste storage, land application, and carcass disposal.

3. The applicant or licensee shall examine the Odor Abatement Plan at least annually to evaluate the effectiveness of the plan, modify for changed conditions at the facility and determine if economically feasible technological advances are available and appropriate for the facility.

C. If, after reviewing the Odor Abatement Plan, the Oklahoma Department of Agriculture, Food, and Forestry determines that the plan does not adequately meet one or more of the minimum requirements, the licensed managed feeding operation shall make and implement appropriate changes to the Plan which may include the utilization of economically feasible technology designed to abate odor as required by the Department pursuant to the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto.

D. In determining the adequacy of an odor abatement plan, the Department shall consider all relevant factors including but not limited to:

1. Design of the facilities;
2. Odor control technology to be utilized;
3. Prevailing wind direction in relation to occupied residences;

4. Size of operation;
5. Distance from facility to occupied residences; and
6. All information contained in the application.

Added by Laws 1998, c. 404, § 10, eff. Aug. 1, 1998. Renumbered from § 9-205.3a of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2007, c. 31, § 11, eff. Nov. 1, 2007.

§2-20-12. Prevention of hydrologic connection between wastewaters and waters of state.

A. Any hydrologic connection between wastewater and waters of the state outside that authorized by the provisions of the Oklahoma Swine Feeding Operations Act shall constitute a discharge to waters of the state.

B. Except as otherwise provided by Section 20-20 of the Oklahoma Swine Feeding Operations Act, to prevent hydrologic connections between a retention structure and waters of the state, all swine feeding operations in this state primarily using a liquid swine waste management system whether or not such waste facilities are licensed pursuant to the Oklahoma Swine Feeding Operations Act shall:

1. Utilize a natural or geomembrane liner or other liner constructed of synthetic materials in any retention structure containing liquid swine waste; and

2. Provide documentation that there is no hydrologic connection between the waters of the state and the retention structure. This documentation shall be certified by an environmental, agricultural, or other approved professional engineer licensed pursuant to Section 475.12 of Title 59 of the Oklahoma Statutes or a United States Department of Agriculture Natural Resources Conservation Service engineer and shall include information on the hydraulic conductivity and thickness of the natural materials underlying and forming the walls of the containment structure up to the maximum operating level.

C. Except as provided by Section 20-20 of the Oklahoma Swine Feeding Operations Act and subsection E of this section, all retention structures of licensed managed feeding operations shall maintain a minimum separation of ten (10) feet between the bottom of the retention structure and the maximum historical groundwater elevation that is measured from the bottom of the retention structure and the highest point of the seasonal groundwater table. Documentation of a ten-foot separation shall be established by submission of a soil log from a soil boring extending a minimum of ten (10) feet below the bottom of all retention structures to ascertain the presence of groundwater or bedrock and a statement from a professional engineer certifying the existence of the ten-foot separation distance.

D. The State Board of Agriculture shall establish standards for retention structures.

E. The Department of Agriculture, Food, and Forestry may allow a separation of less than ten (10) feet but in no event less than four (4) feet between the bottom of the retention structure and the maximum historical groundwater elevation. In determining the minimum separation to be required, the Department shall consider the following factors:

1. Soil type at the retention structure;
2. Soil tests per American Standards Testing Methods (ASTM) standards on all soils to be used as liner material;
3. Retention structure capacity;
4. Retention structure design;
5. Documentation of lack of hydrologic connection between the waters of the state and the retention structure;
6. Depth of retention structure;
7. Type and characteristics of liner to be used; and
8. Any other relevant information.

F. 1. Licensed managed feeding operations shall install and maintain in good working order a leak detection system or sufficient monitoring wells both upgradient and downgradient around the perimeter of each retention structure prior to using the retention structure for storage of liquid waste pursuant to rules promulgated by the State Board of Agriculture.

2. a. Samples of water shall be collected by the Oklahoma Department of Agriculture, Food, and Forestry and submitted for testing at least annually. The analysis of the water samples shall be performed by a qualified environmental laboratory approved by the Oklahoma Department of Environmental Quality or by the relevant certification agency for the state in which the laboratory is located and approved by the Oklahoma Department of Agriculture, Food, and Forestry; and the cost shall be the responsibility of the owner of the licensed managed feeding operation.

- b. The frequency of sampling set forth in subparagraph a of this paragraph may be reduced to once every three (3) years for those monitoring wells which have been sampled for at least three (3) consecutive years and have always been found to be dry. However, if any subsequent sampling event indicates the monitoring well is no longer dry, that monitoring well shall be sampled pursuant to subparagraph a of this paragraph.

3. Documentation, sampling data, and any other records required by this section shall be maintained on site for the life of the facility.

4. Analysis from the sampling taken prior to the operation of the facility may be considered the baseline data and shall be retained on site for the life of the facility. If no sampling or

other baseline data is available prior to the operation of the facility, the samples taken during the first year may be considered the baseline data and shall be retained on site for the life of the facility. Baseline data for the facility shall be determined based on the best information available.

5. The Oklahoma Water Resources Board shall promulgate rules providing for plugging of monitoring wells as appropriate.

G. Site-specific conditions shall be considered in the design and construction of liners. Liners for retention structures shall be designed and constructed in accordance with the provisions of this section and generally accepted engineering practices established by rules of the Board or as required by the federal Environmental Protection Agency. Liners for lagoons owned or operated by a swine feeding operation with less than one thousand (1,000) swine animal units may be designed and constructed pursuant to Technical Note 716 of the United States Department of Agriculture Natural Resources Conservation Service or its current equivalent so long as the facility is designed by the United States Department of Agriculture Natural Resources Conservation Service.

H. 1. When a liner is installed to prevent hydrologic connection, the licensee or the owner shall maintain the liner to inhibit infiltration of wastewaters. Documentation of liner maintenance shall be maintained at the facility.

2. An environmental, agricultural, or other approved professional engineer licensed pursuant to Section 475.12 of Title 59 of the Oklahoma Statutes shall conduct a site evaluation every five (5) years on the retention structure of every concentrated swine feeding operation with such a structure and annually on every licensed managed feeding operation to ensure liner integrity. If the owner or operator suspects that a retention structure is leaking, the owner or operator shall report suspected leakage to the Department.

3. The Department shall establish a compliance schedule for retrofitting liners of waste retention structures for licensed managed feeding operations constructed prior to August 1, 1998, that are located in nutrient-limited watersheds or nutrient-vulnerable groundwaters as designated by the Oklahoma Water Resources Board and do not have liners meeting the specifications established in this section.

I. All substances entering the retention structures shall be composed entirely of wastewaters from the proper operation and maintenance of a swine feeding operation and the runoff from the swine feeding operation area. The disposal of any materials, other than substances associated with proper operation and maintenance of the facility into the containment structures, including but not limited to human waste, is prohibited.

J. All new retention structures of licensed managed feeding operations shall be designed for odor abatement, groundwater protection, and nutrient conservation.

K. Documentation, sampling data, and any other records required by this section shall be maintained on site for as long as the facility is in operation. Samples collected during the first year of the retention structure may be considered the baseline data and shall be retained on site as long as the facility is in operation. Baseline data for the facility shall be determined based on the best information available.

Added by Laws 1997, c. 331, § 10, eff. Sept. 1, 1997. Amended by Laws 1998, c. 404, § 11, eff. Aug. 1, 1998. Renumbered from § 9-205.4 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2006, c. 148, § 1, emerg. eff. May 12, 2006; Laws 2007, c. 31, § 12, eff. Nov. 1, 2007.

§2-20-13. Irrigation systems.

A. All irrigation systems into which any swine waste will be injected shall be equipped with one or both of the following systems:

1. An antipollution system, approved by the State Board of Agriculture, capable of preventing the backflow of swine waste into the groundwater. The system shall include a safety check valve with a removable inspection port, anti-syphon vent, and low-pressure escape drain. An interlock device shall be installed on pumps that pump the swine waste so that if a fresh water irrigation pump shuts down, the pump that pumps the swine waste will also immediately shut down, preventing the chance of leakage past the check valve; or

2. A system which provides for a complete and total disconnection between the flow of fresh water and the flow of swine waste. The system shall be capable of a manual disconnection between fresh water and the swine waste.

B. The Oklahoma Department of Agriculture, Food, and Forestry shall make annual on-site inspections examining the operative status of the check valves and interlock devices.

C. The operator of the irrigation system shall be responsible to ensure:

1. That the valves and interlock devices remain operative between annual inspections by the Department; or

2. Complete disconnection from fresh water when introducing swine waste into the system.

Added by Laws 1997, c. 331, § 11, eff. Sept. 1, 1997. Renumbered from § 9-205.5 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2007, c. 31, § 13, eff. Nov. 1, 2007.

§2-20-14. Investigations and inspections.

A. The State Board of Agriculture or its authorized agents are empowered to enter upon the premises of any swine feeding operation

for the purpose of investigating complaints as to the operation or to determine whether there are any violations of the Oklahoma Swine Feeding Operations Act. The Department shall make at least one unannounced inspection per year of every swine feeding operation licensed pursuant to the Oklahoma Swine Feeding Operations Act.

B. 1. The Board shall promulgate standard precautions for the prevention of the transmission of communicable diseases to humans and animals to be used by employees of the Oklahoma Department of Agriculture, Food and Forestry when inspecting swine feeding operations pursuant to their official duties specified by the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto.

2. Except for emergency situations or when enforcement of the provisions of the Oklahoma Swine Feeding Operations Act requires the use of the standard precautions as promulgated by the Board pursuant to paragraph 1 of this subsection, Department employees shall observe the health standards and sanitary requirements of the facility.

C. The Board shall maintain necessary records and undertake such studies, investigations, and surveys for the proper administration of the Oklahoma Swine Feeding Operations Act.

Added by Laws 1969, c. 116, § 6. Amended by Laws 1997, c. 331, § 12, eff. Sept. 1, 1997. Renumbered from § 9-206 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2007, c. 31, § 14, eff. Nov. 1, 2007.

§2-20-15. License required for operation - Jurisdiction of Department of Environmental Quality.

A. 1. It shall be unlawful for any person to operate a concentrated swine feeding operation, without first obtaining a license from the State Board of Agriculture.

2. The owner or operator of a swine feeding operation not classified as a concentrated swine feeding operation may apply for a license if the owner or operator elects to come under the provision of the Oklahoma Swine Feeding Operations Act and the rules of the State Board of Agriculture.

3. The owner or operator of a swine feeding operation primarily using a liquid swine waste management system not classified as a licensed managed feeding operation may apply for a license if the owner or operator voluntarily elects to come under the provisions of the Oklahoma Swine Feeding Operations Act relating to licensed managed feeding operations and the rules of the State Board of Agriculture.

B. 1. The Department of Environmental Quality shall have environmental jurisdiction over:

- a. commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over manufacturing of food

- and kindred products, tobacco, paper, lumber, wood, textile mill and other agricultural products,
- b. slaughterhouses, but not including feedlots at these facilities, and
- c. aquaculture and fish hatcheries, including, but not limited to, discharges of pollutants and storm water to waters of the state, surface impoundments and land application of wastes and sludge, and other pollution originating at these facilities.

2. Facilities storing grain, feed, seed, fertilizer, and agricultural chemicals that are required by federal National Pollutant Discharge Elimination System regulations to obtain a permit for storm water discharges shall only be subject to the jurisdiction of the Department of Environmental Quality with respect to storm water discharges.

Added by Laws 1969, c. 116, § 8. Amended by Laws 1973, c. 70, § 2, emerg. eff. April 27, 1973; Laws 1981, c. 77, § 2; Laws 1993, c. 145, § 251, eff. July 1, 1993; Laws 1993, c. 324, § 47, eff. July 1, 1993; Laws 1994, c. 140, § 29, eff. Sept. 1, 1994; Laws 1997, c. 331, § 13, eff. Sept. 1, 1997; Laws 1998, c. 404, § 12, eff. Aug. 1, 1998; Laws 1999, c. 413, § 14, eff. Nov. 1, 1999; Laws 2005, c. 292, § 22, eff. July 1, 2005. Renumbered from § 9-208 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2007, c. 31, § 15, eff. Nov. 1, 2007.

§2-20-16. Expiration and renewal of licenses - Fees.

A. Licenses shall expire on June 30 of each year and may be renewed upon payment of the license and swine animal unit fees set forth in this section and continued compliance with the provisions of the Oklahoma Swine Feeding Operations Act and the rules of the Board.

B. The fees for a swine feeding operations license and annual renewal thereof shall be:

1. Fifteen Dollars (\$15.00) for facilities with a capacity of less than two hundred fifty (250) swine animal units;

2. Thirty-seven Dollars and fifty cents (\$37.50) for facilities with a capacity of two hundred fifty (250) to five hundred (500) swine animal units;

3. Seventy-five Dollars (\$75.00) for facilities with a capacity of five hundred one (501) to three thousand (3,000) swine animal units;

4. One Hundred Fifty Dollars (\$150.00) for facilities with a capacity of three thousand one (3,001) to ten thousand (10,000) swine animal units; or

5. Two Hundred Twenty-five Dollars (\$225.00) for facilities with a capacity of more than ten thousand (10,000) swine animal units.

C. 1. All licensed managed feeding operations shall pay an additional license fee for original licenses in an amount equal to

eighty cents (\$0.80) per licensed swine animal unit capacity. One-half (1/2) of the amount shall be due and payable with the application.

2. The other one-half (1/2) of the amount shall be due thirty (30) days from the date the application is approved. In the event the application is not approved, any amount of the fee in excess of the costs of processing the application shall be refunded to the applicant.

3. All licensed managed feeding operations shall pay an additional license fee for renewal licenses in an amount established by rules.

D. The Department shall review costs related to the administration, regulation, and enforcement of licensed managed feeding operations. Based on the review, rules shall be promulgated pursuant to the Administrative Procedures Act establishing a renewal fee for licensed managed feeding operations. The fee shall be based on the costs incurred by the Department in salaries, travel claims, and other necessary expenses incurred in fulfilling its regulatory and administrative obligations with regard to licensed managed feeding operations. Under no circumstances shall the fee exceed eighty cents (\$0.80) per swine animal unit.

E. All fees received for licensure of swine feeding operations shall be deposited in the State Department of Agriculture Revolving Fund.

Added by Laws 1969, c. 116, § 9. Amended by Laws 1973, c. 70, § 3, emerg. eff. April 27, 1973; Laws 1997, c. 331, § 14, eff. Sept. 1, 1997; Laws 1998, c. 404, § 13, emerg. eff. June 10, 1998. Renumbered from § 9-209 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2007, c. 31, § 16, eff. Nov. 1, 2007.

§2-20-17. Evidence of financial ability.

A. Any person who is licensed to operate a swine feeding operation with a liquid swine waste management system within this state shall furnish to the Oklahoma Department of Agriculture, Food, and Forestry evidence of financial ability to comply with the requirements for closure of retention structures and other waste facilities as established pursuant to the provisions of this section and rules promulgated by the State Board of Agriculture.

B. 1. To establish evidence of financial ability the Department shall require:

- a. Category A surety which shall include a financial statement listing assets and liabilities and including a general release that the information may be verified with banks and other financial institutions. The financial statement shall be confidential and shall not be opened to public inspection. The statement shall prove a net worth of not less than:

- (1) Ten Thousand Dollars (\$10,000.00) for any swine feeding operation licensed pursuant to the Oklahoma Swine Feeding Operations Act having a capacity of more than three hundred (300) swine animal units but having one thousand (1,000) swine animal units or less,
 - (2) Twenty-five Thousand Dollars (\$25,000.00) for any swine feeding operation licensed pursuant to the Oklahoma Swine Feeding Operations Act having a capacity of more than one thousand (1,000) swine animal units but less than two thousand (2,000) swine animal units, or
 - (3) Fifty Thousand Dollars (\$50,000.00) for any swine feeding operation licensed pursuant to the Oklahoma Swine Feeding Operations Act having a capacity of more than two thousand (2,000) swine animal units, or
- b. Category B surety which shall include an irrevocable commercial letter of credit, cash, a cashier's check, a Certificate of Deposit, Bank Joint Custody Receipt, other negotiable instrument or a blanket surety bond. Except as provided in paragraph 2 of this subsection, amount of such letter of credit, cash, check, certificate, bond, receipt or other negotiable instrument shall be in the amount of Twenty-five Thousand Dollars (\$25,000.00). The Department is authorized to determine the amount of Category B surety based upon the past performance of the owner or operator regarding compliance with the laws of this state, and any rules promulgated pursuant thereto. Any instrument shall constitute an unconditional promise to pay and be in a form negotiable by the Department.

2. The Department upon certification by any swine feeding operation subject to Category B surety that its liability statewide is less than the twenty-five-thousand-dollar standard specified in this section may allow the owner or operator to provide Category B type surety in an amount less than the required Twenty-five Thousand Dollars (\$25,000.00), but at least sufficient to cover the estimated cost of all closure and removal operations currently the responsibility of that owner or operator.

C. 1. Any swine feeding operation licensed pursuant to the provisions of the Oklahoma Swine Feeding Operations Act which does not have any outstanding contempt citations or fines may post Category A surety.

2. Any swine feeding operation licensed pursuant to the provisions of the Oklahoma Swine Feeding Operations Act which does have outstanding fines or contempt citations shall be required to

post Category B surety. Swine feeding operations which have posted Category B surety and have operated under this type surety and have no outstanding fines at the end of three (3) years may post Category A surety.

D. For good cause shown concerning pollution by the swine feeding operations posting either Category A or B surety, the Department, after notice and hearing, may require the filing of additional Category B surety in an amount greater than Twenty-five Thousand Dollars (\$25,000.00) but not to exceed Five Dollars (\$5.00) times the number of swine animal units for the facility being licensed.

E. 1. If the Department, after notice and an opportunity for hearing, determines that the swine feeding operation licensed pursuant to the provisions of the Oklahoma Swine Feeding Operations Act has neglected, failed, or refused to close any surface impoundment, or remove or cause to be removed any equipment, or has abandoned the facility, then the swine feeding operation shall be deemed to have forfeited the letter of credit or negotiable instrument required by this section or shall pay to this state, for deposit in the State Treasury, a sum equal to the cost of closure of any surface impoundment or removal of equipment.

2. The Department may cause the remedial work to be done, issuing a warrant in payment of the cost thereof drawn against the monies accruing in the State Treasury from the forfeiture or payment.

3. The Department shall also recover any costs arising from litigation to enforce this provision. Provided, before a swine feeding operation is required to forfeit or pay any monies to the state pursuant to this section, the Department shall notify the swine feeding operation at the last-known address of the determination of neglect, failure or refusal to close any surface impoundment or remove equipment and the swine feeding operation shall have ten (10) days from the date of notification within which to commence remedial operations. Failure to commence remedial operations shall result in forfeiture or payment as provided in this subsection.

F. If title to a swine feeding operation is transferred, the transferee shall furnish the evidence of financial ability to close surface impoundments required by the provisions of this section, prior to the transfer.

Added by Laws 1997, c. 331, § 15, eff. Sept. 1, 1997. Renumbered from § 9-209.1 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2007, c. 31, § 17, eff. Nov. 1, 2007.

§2-20-18. Duties of owners and operators - Nuisance.

A. In addition to any other requirement of the Oklahoma Swine Feeding Operations Act, swine feeding operations owners and operators who are granted a swine feeding operations license shall:

1. Provide adequate veterinarian services for detection, control, and elimination of livestock diseases;

2. Have available for use at all necessary times mechanical means of scraping, cleaning, and grading feed yards premises; and

3. Provide weather resistant aprons adjacent to all permanently affixed feed bunks, water tanks, and feeding devices.

B. 1. Any swine feeding operation licensed pursuant to the Oklahoma Swine Feeding Operations Act, operated in compliance with those standards, and in compliance with the rules promulgated by the State Board of Agriculture, shall be deemed to be prima facie evidence that a nuisance does not exist; provided, no swine feeding operation shall be located or operated in violation of any zoning regulations.

2. Any swine feeding operation licensed pursuant to the Oklahoma Swine Feeding Operations Act, operated in compliance with those standards, and in compliance with rules promulgated by the Board, that is located on land more than three (3) miles outside the incorporated limits of any municipality and which is not located within one (1) mile of ten or more occupied residences shall not be deemed a nuisance unless it is shown by a preponderance of the evidence that the operation endangers the health or safety of others. Added by Laws 1969, c. 116, § 10. Amended by Laws 1993, c. 315, § 1, eff. Sept. 1, 1993; Laws 1997, c. 331, § 16, eff. Sept. 1, 1997. Renumbered from § 9-210 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2007, c. 31, § 18, eff. Nov. 1, 2007.

§2-20-19. Setback requirements.

A. Except as authorized by this subsection, no liquid swine waste shall be land applied within five hundred (500) feet of the nearest corner of an occupied residence not owned or leased by the owner of the swine feeding operation.

B. Except as otherwise provided by Section 20-20 of this title, no concentrated swine feeding operation shall be established within one (1) mile of ten or more residences that are occupied residences at the time of the establishment of the concentrated swine feeding operation.

C. The proscription contained in subsections A and B of this section shall not apply if the applicable property owner executes a written waiver with the owner or operator of the swine 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 and B of this section. A change in ownership of the applicable property or change

in the ownership of the property on which the swine feeding operation is located shall not affect the validity of the waiver.

D. No liquid swine waste shall be land applied within three hundred (300) feet of an existing public or private drinking water well.

E. Except as provided by Section 20-20 of this title, no concentrated swine feeding operation shall be established if located:

1. Within three (3) miles of a state park or resort;

2. On land within three (3) miles of the incorporated limits of any municipality, unless the municipality's governing body executes a written waiver of the setback for the particular swine feeding operation. A change in ownership of the property on which the animal feeding operation is located shall not affect the validity of the waiver; or

3. Within three (3) miles of the high water mark of a surface public water supply if the concentrated swine feeding operation is located within the drainage basin for the public water supply.

F. All distances between occupied residences and swine feeding operations shall be measured from the closest corner of the walls of the occupied residence to the closest point of the nearest waste facility, as determined by the Department. The property boundary line of the real property is not used unless it coincides with the closest point of the waste facility or occupied residence.

Added by Laws 1997, c. 331, § 17, eff. Sept. 1, 1997. Amended by Laws 1998, c. 404, § 14, emerg. eff. June 10, 1998. Renumbered from § 9-210.1 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2007, c. 31, § 19, eff. Nov. 1, 2007; Laws 2017, c. 90, § 3, eff. Nov. 1, 2017.

§2-20-20. Exemptions applicable to certain operations.

A. The provisions of Section 20-19 of this title relating to setback requirements and the provisions of subsections B and C of Section 20-12 of this title relating to utilization of liners in retention structures or documentation of no hydrologic connection and to a minimum separation of ten (10) feet between the bottom of the retention structure and the maximum groundwater elevation shall not apply to any concentrated swine feeding operation that is licensed by or submitted a substantially completed application on or before September 1, 1997.

B. Any expanding operations shall be in accordance with the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto.

Added by Laws 1997, c. 331, § 18, eff. Sept. 1, 1997. Amended by Laws 1998, c. 404, § 15, eff. Aug. 1, 1998. Renumbered from § 9-210.2 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2007, c. 31, § 20, eff. Nov. 1, 2007.

§2-20-21. Liquid swine waste management systems - Location.

Except as otherwise provided by Section 20-19 of this title and subsection I of this section, swine feeding operations using liquid swine waste management systems and housing swine in roof-covered structures shall not be located within the following applicable distances from an occupied residence:

1. More than 4000 swine animal units.....2 miles;
2. 2001 to 4000 swine animal units.....1 1/4 miles;
3. 1001 to 2000 swine animal units.....3/4 mile;
4. 601 to 1000 swine animal units.....1/2 mile;
5. 300 to 600 swine animal units.....1/4 mile; and
6. Less than 300 swine animal units.....no setback.

B. Except as otherwise provided by Section 20-19 of this title and subsection I of this section, new swine feeding operations established on or after November 1, 2011, using liquid swine waste management systems and housing swine in roof-covered structures shall not be located within three (3) miles from the outside boundary of any area or facility with an average annual registered attendance of not less than two thousand (2,000) people and owned or operated as a camp or recreational site by a nonprofit organization established prior to application of the swine feeding operation.

C. Except as otherwise provided by Section 20-19 of this title and subsection I of this section, new swine feeding operations established on or after November 1, 2011, using liquid swine waste management systems and housing swine in roof-covered structures shall not be located within one (1) mile from the outside boundary of any area or facility with an average annual registered attendance of less than two thousand (2,000) people and owned or operated as a camp or recreational site by a nonprofit organization established prior to application of the swine feeding operation.

D. Except as otherwise provided by this section, no licensed managed feeding operation which applies for a new or expanding concentrated swine feeding operation license shall be located within three (3) miles of the outside boundary of any area or facility owned or operated as a camp or recreational site by a nonprofit organization established prior to application of the concentrated swine feeding operation.

E. 1. In determining whether any such area or facility is a camp or recreational site, the State Board of Agriculture shall consider:

- a. whether a reasonable person, after considering the totality of the circumstances, would determine that the area or facility is predominately used for camping or recreational purposes,
- b. the type of permanent structures or fixtures of a recreational nature located on the land,

- c. the frequency with which the site is used for recreational purposes,
- d. the types of activities which are conducted or engaged in on the site, and
- e. any other factors the Board deems directly relevant to the question of whether a site is recreational in nature.

2. The setbacks contained in subsections B, C and D shall apply only if the property was owned or leased by such organization prior to the construction or establishment of the swine feeding operation.

F. The setback requirements contained in subsections A, B, C or D of this section shall not apply to any property owner who executes a written waiver with the owner or operator of the swine feeding operation, under such terms and conditions as are agreed to by the parties. The written waiver shall be effective upon recording of the waiver in the office of the county clerk in the county in which the property is located. The filed waiver shall preclude enforcement of the setback requirements of subsection A, B, C or D of this section with regard to property described in the waiver and owned by the person executing the waiver. A change in ownership of the applicable property or change in ownership of the property on which the swine feeding operation is located shall not affect the validity of the waiver.

G. No licensed managed feeding operation established after June 10, 1998 which applies for a new or expanding license shall be located:

- 1. Within three (3) miles of any designated scenic river area as specified by the Scenic Rivers Act;
- 2. Within three (3) miles of the outside boundary of any historic property or museum owned by the State of Oklahoma;
- 3. Within three (3) miles of a public drinking water well;
- 4. Within one (1) mile of a water body specified as Outstanding Resource Waters that has recreational or ecological significance as outlined by the most current Water Quality Standards promulgated by the Oklahoma Water Resources Board; or
- 5. Within three (3) miles of a national park designated by the United States Department of the Interior National Park Service.

H. All distances between occupied residences and swine feeding operations shall be measured from the closest corner of the walls of the occupied residence to the closest point of the nearest waste facility, as determined by the Oklahoma Department of Agriculture, Food, and Forestry. The property boundary line of the real property is not used unless it coincides with the closest point of the waste facility or occupied residence.

I. The provisions of this section shall not apply to any swine feeding operation which has been licensed by or which had submitted an application to the Department on or prior to March 9, 1998. In

addition, the provisions of this section shall not apply to any swine feeding operation with a capacity of 2000 swine animal units or less which was established prior to June 1, 1998.

Added by Laws 1998, c. 404, § 16, emerg. eff. June 10, 1998.

Renumbered from § 9-210.3 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2007, c. 31, § 21, eff. Nov. 1, 2007; Laws 2011, c. 215, § 2, eff. Nov. 1, 2011.

§2-20-22. Prohibition of new or expanded feeding operations within certain distance upstream of Pensacola Project boundary.

The Oklahoma Department of Agriculture, Food, and Forestry shall not accept or approve any pending applications requesting permits for construction or expansion of any concentrated swine feeding operation to be located within one (1) mile upstream of the Pensacola Project boundary as described in the records of the Grand River Dam Authority and the Federal Emergency Management Agency. Any operation authorized or permitted prior to April 17, 2002, shall not be affected by the provisions of this section.

Added by Laws 2005, c. 292, § 23, eff. July 1, 2005. Amended by Laws 2007, c. 31, § 22, eff. Nov. 1, 2007.

§2-20-23. Exceeding swine animal unit capacity - Criteria - Notice.

A. A concentrated swine feeding operation may exceed its swine animal unit capacity if:

1. A diseased or potentially diseased swine exists at the operation; or

2. A diseased or potentially diseased swine is in the next destination for the production line for the operation; and

3. The owner of the concentrated swine feeding operation has reasonable cause to believe a swine has or may have any disease causing:

a. a public health emergency,

b. a substantial and imminent economic hardship to the owner, or

c. a substantial and imminent threat to the swine population of the state; or

4. The State Board of Agriculture issues an order establishing temporary restrictions, a quarantine, or a quarantine zone restricting the movement of persons, livestock, machinery, and personal property out of a concentrated swine feeding operation.

B. In no case shall a swine animal unit capacity be exceeded for more than five (5) days following a confirmatory test indicating that either the swine is diseased or is not diseased. A confirmatory test shall be performed within twenty (20) days of discovery that a diseased or potentially diseased swine exists at the operation.

C. The owner of a concentrated swine feeding operation shall provide written notification to the Oklahoma Department of

Agriculture, Food, and Forestry upon discovery of a diseased or potentially diseased swine pursuant to subsection A of this section that may result in the swine animal unit capacity being exceeded.

D. The notice shall:

1. Identify the concentrated swine feeding operation that may exceed its swine animal unit capacity; and

2. Include an estimate of the number of swine exceeding the swine animal unit capacity at the concentrated swine feeding operation.

Added by Laws 2004, c. 31, § 2, emerg. eff. March 30, 2004.

Renumbered from § 20-49 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2007, c. 31, § 23, eff. Nov. 1, 2007.

§2-20-24. Repealed by Laws 2005, c. 292, § 26, eff. July 1, 2005.

§2-20-25. Violation points system - Denial, suspension or revocation of license.

A. 1. The State Board of Agriculture is authorized and directed to promulgate a violation points system for violating the Oklahoma Swine Feeding Operations Act which provides greater punishment for violations which are intentional and for violations which pose a greater threat to the environment.

2. The State Board of Agriculture shall have the power to suspend, revoke or not renew the license of any swine feeding operation based on the point system after a hearing, and after an administrative determination that the swine feeding operation has violated or has failed to comply with any of the provisions of the Oklahoma Swine Feeding Operations Act, or any rule promulgated pursuant thereto.

3. The Board shall have the power and duty to reinstate any such suspended or revoked licenses, or renew the licenses, upon a satisfactory and acceptable showing and assurance that the swine feeding operation conducted swine feeding operations in conformity with, and in compliance with, the provisions of the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto, and that conformity and compliance will be continuous.

B. In order to protect the public health and safety and the environment of this state, the Board, pursuant to the Oklahoma Swine Feeding Operations Act, may deny issuance of a license or transfer of a license to establish and operate a swine feeding operation on and after September 1, 1997, to any person or other legal entity which:

1. Is not in substantial compliance with a final agency order or any final order or judgment of a court of record secured by any state or federal agency relating to swine feeding operations; or

2. Has evidenced a reckless disregard for the protection of the public and the environment as demonstrated by a history of

noncompliance with environmental laws and rules resulting in endangerment of human health or the environment.

C. Any action taken in regard to the denial, suspension or revocation of a license shall be in conformity with the rules of the Board governing Administrative Procedures and the Administrative Procedures Act.

Added by Laws 1969, c. 116, § 11. Amended by Laws 1997, c. 331, § 19, eff. Sept. 1, 1997; Laws 1998, c. 404, § 17, eff. Aug. 1, 1998. Renumbered from § 9-211 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2007, c. 31, § 24, eff. Nov. 1, 2007.

§2-20-26. Penalties.

A. Any person violating the provisions of the Oklahoma Swine Feeding Operations Act or any rule of the State Board of Agriculture promulgated pursuant thereto shall, upon conviction, be deemed guilty of a misdemeanor and upon conviction thereof may be punished by a fine not exceeding Two Hundred Dollars (\$200.00).

B. Any owner or operator who fails to take such action as may be reasonable and necessary to avoid pollution of any stream, lake, river or creek, except as otherwise provided by law, or who violates any rule of the Board adopted to prevent water pollution from swine feeding operations pursuant to this act shall, upon conviction, be deemed guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of Five Hundred Dollars (\$500.00) to Ten Thousand Dollars (\$10,000.00) for each violation, by imprisonment in the county jail for not more than six (6) months for each violation, or by the assessment of a civil penalty up to Ten Thousand Dollars (\$10,000.00) for each violation or by any of such fine, imprisonment, and civil penalty.

C. 1. In addition to the criminal and civil penalties specified by this section, the Oklahoma Department of Agriculture, Food, and Forestry may:

- a. assess an administrative penalty of not more than Ten Thousand Dollars (\$10,000.00) per day of noncompliance, or
- b. bring an action for injunctive relief granted by a district court.

2. A district court may grant injunctive relief to prevent a violation of, or to compel compliance with, any of the provisions of the Oklahoma Swine Feeding Operations Act or any rule promulgated thereunder or order, license or permit issued pursuant to the Oklahoma Swine Feeding Operations Act.

3. Nothing in this section shall preclude the Department from seeking penalties in district court in the maximum amount allowed by law. The assessment of penalties in an administrative enforcement proceeding shall not prevent the subsequent assessment by a court of

the maximum civil or criminal penalties for violations of the Oklahoma Swine Feeding Operations Act.

D. Any person assessed an administrative or civil penalty may be required to pay, in addition to such penalty amount and interest thereon, attorneys fees and costs associated with the collection of such penalties.

E. The Attorney General or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of the Oklahoma Swine Feeding Operations Act or any rule promulgated thereunder, or order, license or permit issued pursuant thereto.

F. 1. Any action for injunctive relief to redress or restrain a violation by any person of the Oklahoma Swine Feeding Operations Act or for any rule promulgated thereunder, or order, license, or permit issued pursuant thereto or recovery of any administrative or civil penalty assessed pursuant to the Oklahoma Swine Feeding Operations Act may be brought by:

- a. the district attorney of the appropriate district court of the State of Oklahoma,
- b. the Attorney General on behalf of the State of Oklahoma, or
- c. the Department on behalf of the State of Oklahoma.

2. The court shall have jurisdiction to determine said action, and to grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

3. It shall be the duty of the Attorney General and district attorney if requested by the Commissioner of Agriculture to bring such actions.

G. Except as otherwise provided by law, administrative and civil penalties shall be paid into the State Department of Agriculture Revolving Fund.

H. In determining the amount of a civil penalty or administrative penalty, the court or the Department, as the case may be, shall consider such factors as the nature, circumstances and gravity of the violation or violations, the economic benefit, if any, resulting to the defendant from the violation, the history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the defendant, the defendant's degree of culpability, and such other matters as justice may require.

I. For the purposes of this section, each day upon which a violation is committed or is permitted to continue shall be deemed a separate offense.

J. In addition to other penalties as may be imposed by law, any person who knowingly makes any false statement, representation or

certification in any water pollution form, notice or report, or who knowingly renders inaccurate any monitoring device or method required to be maintained by any water pollution rules promulgated by the Board, shall, upon conviction, be guilty of a misdemeanor and may be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) for each violation.

Added by Laws 1969, c. 116, § 12. Amended by Laws 1981, c. 277, § 1, emerg. eff. June 26, 1981; Laws 1993, c. 99, § 1, emerg. eff. April 20, 1993; Laws 1997, c. 331, § 20, eff. Sept. 1, 1997; Laws 1998, c. 404, § 18, eff. Aug. 1, 1998. Renumbered from § 9-212 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2007, c. 31, § 25, eff. Nov. 1, 2007.

§2-20-27. Renumbered as § 20-63 of this title by Laws 2007, c. 31, § 51, eff. Nov. 1, 2007.

§2-20-28. Codification.

The Oklahoma Swine Feeding Operations Act shall be enacted as a part of the Agricultural Code and shall be codified accordingly.

Added by Laws 1969, c. 116, § 14. Amended by Laws 1997, c. 331, § 21, eff. Sept. 1, 1997. Renumbered from § 9-214 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2007, c. 31, § 27, eff. Nov. 1, 2007.

§2-20-29. Repealer.

All laws or parts of laws in conflict herewith are repealed.

Added by Laws 1969, c. 116, § 15. Renumbered from § 9-215 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-20-40. Short title - Purpose.

A. Sections 28 through 50 of this act shall be known and may be cited as the "Oklahoma Concentrated Animal Feeding Operations Act".

B. The purpose of the Oklahoma Concentrated Animal Feeding Operations Act is to provide for environmentally responsible construction and expansion of animal feeding operations and to protect the safety, welfare and quality of life of persons who live in the vicinity of an animal feeding operation.

Added by Laws 2007, c. 31, § 28, eff. Nov. 1, 2007.

§2-20-41. Definitions.

A. Concentrated animal feeding operations are point sources subject to the license program established pursuant to the provisions of the Oklahoma Concentrated Animal Feeding Operations Act.

B. As used in the Oklahoma Concentrated Animal Feeding Operations Act:

1. "Affected property owner" means a surface landowner within one (1) mile of the designated perimeter of an animal feeding operation;

2. "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.

The term "animal feeding operation" shall not include a racetrack licensed by the Oklahoma Horse Racing Commission to hold pari-mutuel race meetings pursuant to the Oklahoma Horse Racing Act if the facility discharges to a publicly owned treatment works, or an aquatic animal production facility;

3. "Animal unit" means a unit of measurement for any animal feeding operation calculated by adding the following numbers: The number of slaughter and feeder cattle multiplied by one (1), plus the number of mature dairy cattle multiplied by one and four-tenths (1.4), plus the number of sheep multiplied by one-tenth (0.1), plus the number of horses multiplied by two (2);

4. "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;

5. "Animal Waste Management Plan" or "Nutrient Management Plan" means a written plan that includes a combination of conservation and management practices designed to protect the natural resources of the state prepared by an owner or operator of an animal feeding operation as required by the Department pursuant to the provisions of Section 20-48 of this title;

6. "Animal waste management system" means a combination of structures and nonstructural practices serving an animal feeding operation that provides for the collection, treatment, disposal, distribution, storage and land application of animal waste;

7. "Artificially constructed" means constructed by humans;

8. "Best Management Practices" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state as established by the Oklahoma Department of Agriculture, Food, and Forestry pursuant to Section 20-48 of this title;

9. "Board" means the State Board of Agriculture;

10. "Common ownership" includes but is not limited to any corporation, partnership or individual where the same owner has power or authority to manage, direct, restrict, regulate or oversee the operation or has financial control of the facility;

11. "Concentrated animal feeding operation" means:

a. an animal feeding operation which meets the following criteria:

- (1) more than the number of animals specified in any of the following categories are confined:
 - (a) 1,000 slaughter and feeder cattle,
 - (b) 700 mature dairy cattle, whether milk or dry cows,
 - (c) 500 horses,
 - (d) 10,000 sheep or lambs,
 - (e) 55,000 turkeys,
 - (f) 100,000 laying hens or broilers, if the facility has continuous overflow watering,
 - (g) 30,000 laying hens or broilers, if the facility has a liquid manure system,
 - (h) 5,000 ducks, or
 - (i) 1,000 animal units, and
- (2) pollutants are discharged into waters of the state.

Provided, no animal feeding operation pursuant to this subparagraph shall be construed to be a concentrated animal feeding operation if the animal feeding operation discharges only in the event of a twenty-five-year, twenty-four-hour storm event, or

b. an animal feeding operation which meets the following criteria:

- (1) more than the number of animals specified in any of the following categories are confined:
 - (a) 300 slaughter or feeder cattle,
 - (b) 200 mature dairy cattle, whether milk or dry cows,
 - (c) 150 horses,
 - (d) 3,000 sheep or lambs,
 - (e) 16,500 turkeys,
 - (f) 30,000 laying hens or broilers, if the facility has continuous overflow watering,
 - (g) 9,000 laying hens or broilers, if the facility has a liquid manure system,
 - (h) 1,500 ducks, or
 - (i) 300 animal units, and
- (2) either one of the following conditions are met:
 - (a) pollutants are discharged into waters of the state through an artificially constructed ditch, flushing system or other similar artificially constructed device, or
 - (b) pollutants are discharged directly into navigable waters which originate outside of

and pass over, across or through the facility or otherwise come into direct contact with the animals confined in the operation.

Provided, however, that no animal feeding operation pursuant to this subparagraph is a concentrated animal feeding operation if the animal feeding operation discharges only in the event of a twenty-five-year, twenty-four-hour storm event, or

- c. the Board determines that the operation is a significant contributor of pollution to waters of the state pursuant to Section 20-44 of this title;

12. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry;

13. "Designated perimeter" means the perimeter of any structure or combination of structures utilized to control animal waste until it can be disposed of in an authorized manner. The structures shall include but not be limited to pits, burial sites, barns or roof-covered structures housing animals, composters, waste storage sites, or retention structures or appurtenances or additions thereto;

14. "Facility" means any place, site or location or part thereof where animals are kept, handled, housed, or otherwise maintained and processed and includes but is not limited to buildings, lots, pens, and animal waste management systems;

15. "Interested party" means an affected property owner found to meet the burden of proof pursuant to the provisions of Section 20-46 of this title;

16. "Land application" means the spreading on, or incorporation of, animal waste into the soil mantle primarily for beneficial purposes;

17. "Liquid animal waste management system" means any animal waste management system which uses water as the primary carrier of the waste into a primary retention structure;

18. "Nutrient-limited watershed" means a watershed of a water body which is designated as "nutrient-limited" in the most recent Oklahoma Water Quality Standards;

19. "Nutrient-vulnerable groundwater" means groundwater which is designated "nutrient-vulnerable" in the most recent Oklahoma Water Quality Standards;

20. "Occupied residence" means a habitable structure designed and constructed for full-time occupancy in all weather conditions which:

- a. is not readily mobile,
- b. is connected to a public or permanent source of electricity and a permanent waste disposal system or public waste disposal system, and
- c. is occupied as a residence;

21. "Pollution Prevention Plan" means a written plan to control the discharge of pollutants which has been prepared in accordance with industry-acceptable engineering and management practices by the owner or operator of an animal feeding operation as required pursuant to Section 20-47 of this title;

22. "Process wastewater" means any water utilized in the facility that comes into contact with any manure, litter, bedding, raw, intermediate, or final material or product used in or resulting from the production of animals and any products directly or indirectly used in the operation of a facility, such as spillage or overflow from animal watering systems; washing, cleaning, or flushing pens, barns, manure pits, direct contact, swimming, washing or spray cooling of animals; and dust control and any precipitation which comes into contact with animals or animal waste;

23. "Retention structures" includes but is not limited to all collection ditches, conduits and swales for the collection of runoff water and process wastewater, and basins, ponds and lagoons or other structures used to store animal wastes;

24. "Waste facility" means any structure or combination of structures utilized to control animal waste until it can be disposed of in an authorized manner. The structures shall include but not be limited to pits, burial sites, barns or roof-covered structures housing animals, composters, waste storage sites, or retention structures or appurtenances or additions thereto; and

25. "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 Clean Water Act or rules promulgated pursuant thereto are not waters of the state.

Added by Laws 2007, c. 31, § 29, eff. Nov. 1, 2007. Amended by Laws 2015, c. 126, § 1, eff. Nov. 1, 2015.

§2-20-42. Rulemaking and employing authority.

The State Board of Agriculture is authorized to promulgate rules for the administration, implementation, and enforcement of the Oklahoma Concentrated Animal Feeding Operations Act. For the performance of its duties and responsibilities, the Board is authorized to employ such personnel and agents as may be required with the funds available.

Added by Laws 2007, c. 31, § 30, eff. Nov. 1, 2007.

§2-20-43. Repealed by Laws 2013, c. 118, § 25, eff. Nov. 1, 2013.

§2-20-44. Mandatory and voluntary licensure - Designation of operations.

A. 1. Any animal feeding operation meeting the criteria defining a concentrated animal feeding operation shall be required to obtain a license to operate pursuant to the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto.

2. No animal feeding operation which voluntarily obtains a license pursuant to the Oklahoma Concentrated Animal Feeding Operations Act shall be considered to be a concentrated animal feeding operation unless the operation meets the definition of concentrated animal feeding operation.

3. Any animal feeding operation other than a concentrated animal feeding operation, regardless of the number of animals, shall only be required to be licensed pursuant to the provisions of the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto if the State Board of Agriculture determines the operation to be a significant contributor of pollution to waters of the state pursuant to subsection C of this section.

B. Two or more animal feeding operations under common ownership are considered, for the purposes of licensure, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.

C. 1. The State Board of Agriculture may make a case-by-case designation of concentrated animal feeding operations pursuant to this section. Any animal feeding operation may be designated as a concentrated animal feeding operation if it is determined to be a significant contributor of pollution to the waters of the state. In making this designation, the Board shall consider the following factors:

- a. the size of the animal feeding operation and the amount of wastes reaching waters of the state,
- b. the location of the animal feeding operation relative to waters of the state,
- c. the means of conveyance of animal waste and wastewater into waters of the state,
- d. the method of disposal for animal waste and process wastewater disposal,
- e. the slope, vegetation, rainfall and other factors affecting the likelihood or frequency of discharge of animal wastes and process wastewaters into waters of the state, and
- f. other such factors relative to the significance of the pollution problem sought to be regulated.

2. In no case shall an application for a license be required from an animal feeding operation pursuant to this subsection until there has been an on-site inspection of the operation and a determination by the Oklahoma Department of Agriculture, Food, and Forestry that the operation is a concentrated animal feeding operation. Should the Department determine that the operation is a concentrated animal feeding operation, the Department shall notify the operation of the determination and of an opportunity for the owner or operator of the facility to request an administrative hearing on the issue.

3. Process wastewater in the overflow may be discharged to navigable waters whenever rainfall events, either chronic or catastrophic, cause an overflow of process wastewater from a retention structure properly designed, constructed and operated to contain all process wastewaters plus the runoff from a twenty-five-year, twenty-four-hour rainfall event for the location of the point source. There shall be no effluent limitations on discharges from a waste facility constructed, and properly maintained to contain the twenty-five-year, twenty-four-hour storm event; provided the proper design, construction, and operation of the retention structure shall include, but not be limited to, one (1) foot of free board.

D. No new concentrated animal feeding operation or expansion of a concentrated animal feeding operation requiring a license pursuant to the Oklahoma Concentrated Animal Feeding Operations Act shall be constructed or placed in operation unless final design plans, specifications and a Pollution Prevention Plan developed pursuant to Section 35 of this act have been approved by the Department.

Added by Laws 2007, c. 31, § 32, eff. Nov. 1, 2007.

§2-20-45. Application for license.

A. The State Board of Agriculture shall cause to be prepared and available, for any person desiring or required to apply for a license to operate a new or previously unlicensed animal feeding operation, the necessary forms and applications.

B. The application for a license to operate a new or previously unlicensed animal feeding operation shall contain, as a minimum, the following information:

1. Name and address of the owner and operator of the facility;
2. Name and address of the animal feeding operation;
3. Capacity in animal units, and number and type of animals housed or confined;

4. A diagram or map and legal description showing geographical location of the facility on which the perimeters of the facility are designated, location of waters of the state, including, but not limited to, drainage from the facility, animal waste storage facilities and land application sites owned or leased by the applicant;

5. A copy of the Pollution Prevention Plan containing an Animal Waste Management Plan, Best Management Practices, or such other plan authorized by the Oklahoma Concentrated Animal Feeding Operations Act and approved by the Department;

6. A copy of the written waiver by an adjacent property owner to the facility releasing specified setback requirements as provided by Section 44 of the Oklahoma Concentrated Animal Feeding Operations Act; and

7. Any other information deemed necessary by the Oklahoma Department of Agriculture, Food, and Forestry to administer the provisions of the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto.

C. 1. An application for renewal of a license to operate an animal feeding operation shall be considered to be properly filed when the Department has received a completed renewal application and payment of fees from the applicant.

2. If the application for renewal is denied, written notification of the denial and an opportunity for an administrative hearing on the denial shall be given to the applicant by the Department. The notification shall set forth the reasons for the denial, steps necessary to meet the requirements for issuance of the renewal license and the opportunity for the applicant to request an administrative hearing.

D. For transfer of a license to a new owner or operator, the following conditions shall be met:

1. The new owner or operator shall submit to the Department a transfer application, attaching any change of conditions resulting from the transfer of ownership or operation;

2. After receipt of the information required, the Department shall review the information, and within sixty (60) days, issue approval or denial of the transfer. Transfer of a license shall be denied only if:

- a. the new owner or operator cannot comply with the requirements of transfer,
- b. the Department finds a material or substantial change in conditions since the issuance of the original license to operate the animal feeding operation,
- c. failure of the new owner or operator to meet any other conditions or requirements for compliance established by the Department pursuant to the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto, or
- d. the new owner or operator has failed to meet the requirements of Section 48 of the Oklahoma Concentrated Animal Feeding Operations Act; and

3. If a transfer is denied, written notification of the denial and an opportunity for an administrative hearing on the denial shall

be given to the applicant for a transfer license by the Department. The notification shall set forth the reasons for the denial, steps necessary to meet the requirements for a transfer license, and the opportunity for the applicant to request an administrative hearing.

E. Any suspension or revocation or nonrenewal of a license issued pursuant to the Oklahoma Concentrated Animal Feeding Operations Act by the Board shall be made in accordance with Section 48 of this act.

F. In addition to other information required for issuance of a new or transfer license, an application for a new or transfer license for a concentrated animal feeding operation shall contain the following information:

1. a. A statement of ownership.
 - (1) If the applicant is a firm or partnership, the name and address of each member thereof shall be included in the application.
 - (2) If the applicant is a corporation, the name and address of the corporation and the name and address of each officer and registered agent of the corporation shall be included in the application.
 - (3) If the applicant is a partnership or other legal entity, the name and address of each partner and stockholder with an ownership interest of ten percent (10%) or more shall be included in the statement.
- b. The information contained in the statement of ownership shall be public information and shall be available upon request from the Board;
2. The name and address of the management, if the management is not the applicant and is acting as agent for the applicant;
3. a. An environmental history from the past three (3) years of any concentrated animal or swine feeding operation established and operated by the applicant or any other operation with common ownership in this state or any other state. The environmental history shall include but not be limited to all citations, administrative orders or penalties, civil injunctions or other civil actions, criminal actions, past, current and ongoing, taken by any person, agency or court relating to noncompliance with any environmental law, rule, agency order, or court action relating to the operation of an animal or swine feeding operation.
- b. A copy of all records relating to the environmental history required by this paragraph shall accompany the application.

- c. Noncompliance with a final agency order or final order or judgment of a court of record which has been set aside by a court on appeal of the final order or judgment shall not be considered a final order or judgment for the purposes of this subsection;

4. Environmental awards or citations received or pollution prevention or voluntary remediation efforts undertaken by the applicant; and

5. Any other information or records required by the Department for purposes of implementing the Oklahoma Concentrated Animal Feeding Operations Act or rules promulgated pursuant thereto.

G. 1. In addition to other penalties as may be imposed by law, any person who knowingly makes any false statement, representation, or certification in, omits material data from, or tampers with any application for a license, or notice relating to the determination of affected property owners, shall, upon conviction thereof, be guilty of a misdemeanor and may be subject to a fine of not more than Ten Thousand Dollars (\$10,000.00) for each such violation. In addition, the Department shall deny licensure to the applicant or may require submission of a new application.

2. The responsibility for ensuring that all affected property owners are notified pursuant to the provisions of this section shall be upon the applicant.

Added by Laws 2007, c. 31, § 33, eff. Nov. 1, 2007. Amended by Laws 2016, c. 228, § 5, eff. Nov. 1, 2016.

§2-20-46. Notice and hearing requirements.

A. 1. Any person applying for a license for a new animal feeding operation shall comply with the notice and hearing requirements as specified by this section and rules promulgated by the State Board of Agriculture.

2. Notice requirements shall include notice to affected property owners by certified mail, return receipt requested pursuant to subsection C of this section and public notice pursuant to subsection D of this section.

B. 1. After submission of a completed application as provided by the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto, the Oklahoma Department of Agriculture, Food, and Forestry shall have sixty (60) working days to review the application for a new operation for physical and technical suitability.

- 2. a. After review of the application, the Department may request additional information from the applicant. Upon receipt of the additional information, the Department shall have an additional thirty (30) working days to review the additional information.

- b. On or before the expiration of the additional thirty (30) working days, the Department shall make a determination as to whether the application is complete and in compliance with all statutory requirements and relevant rules of the Department or request additional information pursuant to subparagraph a of this paragraph.

C. 1. After the Department has determined that the application is complete, the Department shall require the applicant to notify all affected property owners that a completed application is on file with the Department. Notice shall be sent by certified mail, return receipt requested. The notice shall state that an application for a new animal feeding operation has been submitted to the Department and has been deemed to be complete, the location of the facility, that a hearing may be requested within fifteen (15) working days from the receipt of notice by the affected property owner and that a copy of the completed application is available for public review pursuant to paragraph 3 of subsection D of this section.

2. The State Board of Agriculture shall not act on the application until the expiration of the time period set forth in paragraph 1 of subsection G of this section. If a hearing is requested pursuant to paragraph 1 of subsection G of this section, the Board shall not take action on the application until the hearing process is complete.

3. Establishment of property usage is the date the animal feeding operation application was made available for public review versus date of initial construction or placement of occupied residence and shall be given consideration when determining a contested matter between an applicant and an affected property owner on issues other than pollution of the waters of the state.

D. 1. In addition to the individual notice, the Department shall require the applicant to give public notice of the opportunity to comment on the granting of the license.

2. The public notice for a new operation shall be published as a legal notice prior to the date the application is available for public viewing, in at least one newspaper of general circulation in the county where the proposed facility is to be located.

3. The notice shall identify locations where the application shall be available for viewing. The locations shall include the office of the Department and a specific public location in the county where the proposed facility is to be located.

4. The application shall be available for public review during normal business hours. The copies of the application posted for public viewing shall be complete except for proprietary provisions otherwise protected by law and shall remain posted during normal business hours for at least twenty (20) working days after notice is published.

5. The Department, as necessary, may hold public meetings at a location convenient to the population center nearest the proposed facility to address public comments on the proposed facility.

E. Prior to the issuance of any license for an animal feeding operation, the Department shall require the applicant to submit:

1. Documentation certifying notice has been issued to all affected property owners. A map of all affected property owners and the corresponding mailing list shall be submitted with each application; and

2. Proof of publication notice of a new application for an animal feeding operation license.

F. If no hearing is requested within the time periods set forth in paragraph 1 of subsection G of this section, the application shall be submitted to the State Board of Agriculture for consideration and action.

G. 1. An affected property owner may request a hearing prior to final approval of the application. All requests for a hearing shall be filed with the Department within fifteen (15) working days after the receipt of the notice by the affected property owner. In requesting a hearing an affected property owner shall state in the request:

- a. the name and address of the affected property owner and proof of standing by showing a surface ownership interest in the affected property, and
- b. specific allegations showing that the proposed facility or expanding operation may have a direct, substantial and immediate effect upon a legally protected interest of the affected property owner. The allegations shall address with specificity the information contained within the application for licensure. Furthermore, the allegations shall be limited to demonstrating how the application is deficient, how the deficiencies have a direct effect on a legal interest of the affected property owner, and how the application has failed to show that the application should be granted. The allegations shall also address the physical and technical suitability of the proposed facility.

2. If any of the affected property owners request an administrative hearing pursuant to paragraph 1 of this subsection and all information listed in subparagraphs a and b of paragraph 1 of this subsection is found to be complete and adequate in the request for a hearing, the Department shall schedule a preliminary hearing at a reasonable time within sixty (60) calendar days. Should the affected property owner fail to provide any of the information required in the request for a hearing, the affected property owner shall have ten (10) working days during which any deficiencies may be cured after receipt of notice from the Department of the failure.

All affected property owners shall be considered parties to the preliminary hearing scheduled by the Department.

H. 1. The preliminary hearing shall be held at the Oklahoma Department of Agriculture, Food, and Forestry before an administrative law judge.

2. There shall be a rebuttable presumption on the part of the applicant that the application in question is complete and in compliance with all applicable statutes and rules.

3. It shall be the burden of the affected property owner(s) to present an offer of proof showing by a preponderance of the evidence:

- a. that the facility has a direct, substantial and immediate effect upon a legally protected interest, and
- b. that the direct, substantial and immediate effect upon a legally protected interest arises directly from a deficiency in the application or from the physical and technical suitability of the proposed facility.

4. The administrative law judge, after all evidence is presented by any affected property owner that requested a hearing, shall afford the applicant an opportunity to respond to and rebut the allegations presented and to show how the affected property owner failed to meet the standards set forth in subparagraphs a and b of paragraph 3 of this subsection.

5. Upon completion of the preliminary hearing, the administrative law judge shall have twenty (20) working days in which to issue an order granting or denying any affected property owner a full administrative hearing. If an affected property owner is denied a full administrative hearing, the administrative law judge shall issue a written recommended order containing specific findings of fact and conclusions of law on which the decision is based.

6. If the administrative law judge finds an affected property owner that requested a hearing failed to meet the burden of proof set forth in paragraphs 2, 3, and 4 of this subsection, the application shall be sent to the State Board of Agriculture along with a copy of the recommended order of the administrative law judge for consideration and action.

7. If the administrative law judge finds an affected property owner met the burden of proof set forth in paragraph 3 of this subsection, then a full administrative hearing shall be scheduled in accordance with the Administrative Procedures Act.

8. The administrative law judge may separately grant or deny a full administrative hearing for each affected property owner when more than one is party to the preliminary hearing.

I. 1. An affected property owner meeting the burden of proof pursuant to subsection H of this section shall be entitled to a full administrative hearing pursuant to the Administrative Procedures Act. Only those affected property owners found meeting the burden of proof

pursuant to subsection H of this section are entitled to a full administrative hearing.

2. The scheduling conference for the hearing shall be held by the Department at a reasonable time within thirty (30) working days after the administrative law judge has issued a written order. All interested parties may be joined as parties to the hearing.

3. An affected property owner may at any time waive his or her rights to a hearing. If an affected property owner waives his or her rights to a hearing, a signed and notarized document shall be filed with the administrative law judge stating the affected property owner waived his or her rights to a hearing, did so without force or coercion, understands he or she is also waiving his or her rights to any further hearing provided for under this section or the Administrative Procedures Act and that the waiver shall be with prejudice. The waiver of right to a hearing shall be admissible as evidence in any court of the State of Oklahoma as evidence the affected property owner waived his or her rights to any additional hearings to which he or she may otherwise have been entitled.

4. At the administrative hearing, the administrative law judge shall hear testimony and accept evidence pertaining to the physical and technical suitability of the proposed facility and deficiencies contained in the original application for the license. Based on these grounds, it shall be the burden of the interested party to show by clear and convincing evidence that the proposed facility will have a direct, substantial and immediate effect upon a legally protected interest of the interested party. Furthermore, there shall be a rebuttable presumption that the application is complete and in compliance with the relevant statutes and rules.

5. Any evidence presented at the administrative hearing shall be directly related to allegations and evidence previously presented by any affected property owner during the preliminary hearing. Evidence not meeting this criteria shall only be admitted by the administrative law judge upon a finding that:

- a. the evidence was unavailable to the interested party prior to the preliminary hearing,
- b. the interested party exercised due diligence to discover and present all relevant evidence at the preliminary hearing,
- c. reasonable efforts to discover the information would not have led to its discovery prior to the preliminary hearing, or
- d. the applicant willfully concealed evidence or information that would likely have assisted the interested party in presenting its case at the preliminary hearing.

6. At the administrative hearing, the interested party shall be afforded a reasonable opportunity to present evidence and argument in

support of the allegations identified in the preliminary hearing, and the applicant shall be afforded a reasonable opportunity to present evidence and arguments to controvert those allegations.

7. The administrative hearing held pursuant to the provisions of this subsection shall comply with the Administrative Procedures Act and rules promulgated by the Board.

Added by Laws 2007, c. 31, § 34, eff. Nov. 1, 2007. Amended by Laws 2015, c. 126, § 2, eff. Nov. 1, 2015.

§2-20-47. Pollution Prevention Plan.

A. An animal feeding operation licensed pursuant to the provisions of the Oklahoma Concentrated Animal Feeding Operations Act shall develop a Pollution Prevention Plan or may substitute equivalent measures contained in a site-specific Animal Waste Management Plan prepared pursuant to Section 36 of this act. Design and construction criteria developed by the United States Department of Agriculture Natural Resources Conservation Service, may be substituted for the documentation of design capacity and construction requirements.

B. 1. The Pollution Prevention Plan shall be signed by the owner or as otherwise authorized by the Oklahoma Department of Agriculture, Food, and Forestry and a copy shall be retained on site.

2. The animal feeding operation shall amend the Pollution Prevention Plan and obtain approval of the Department prior to any change in design, construction, operation or maintenance which has significant effect on the potential for the discharge of pollutants to the waters of the state.

C. If, after reviewing the Pollution Prevention Plan, the Department determines that the Plan does not meet one or more of the minimum requirements, the animal feeding operation shall make and implement appropriate changes to the Plan as required by the Department pursuant to the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto.

D. The Pollution Prevention Plan shall provide and require presite approval by Departmental personnel prior to construction. During construction, the Department shall monitor the construction process as deemed necessary by the Department in an attempt to verify the construction of the facility is done according to plans and acceptable engineering standards to reduce or eliminate the potential of pollution.

E. In addition to other requirements specified by this section, the Pollution Prevention Plan shall include but not be limited to:

1. A description of potential sources, activities and materials which may reasonably be expected to or could potentially add pollutants to runoff from the facility;

2. A map, indicating an outline of the drainage area of the facility, and each existing structural control measure designed to

reduce pollutants in wastewater and precipitation runoff in all surface waters of the state;

3. A spill contingency plan for potential pollutants;

4. All existing sampling data of groundwater, nitrate and coliform bacteria levels, soil tests from land application sites and animal waste nutrient sampling;

5. A description of management controls appropriate for the facility. The management controls shall include, but not be limited to:

- a. the location and a description of existing structural and nonstructural controls,
- b. documentation of retention structure capacity and the assumptions and calculations used in determining the appropriate volume capacity, and
- c. a description of the design standards for the retention facility embankments;

6. A description of the design standards for any retention facilities;

7. Training requirements for employees;

8. Documentation relating to any hydrologic connection between the contained wastewater and waters of the state which complies with Section 37 of this act; and

9. Requirements that all irrigation systems into which any animal waste will be injected shall be equipped as specified by Section 38 of this act.

F. The following records shall be maintained at the site as long as the facility is in operation:

1. Water level in the retention structure;
2. Daily precipitation records from on-site rain gauge;
3. Incident reports such as spills and other discharges;
4. Inspection and maintenance reports;
5. Findings from annual inspections of the entire facility;
6. Log of preventive maintenance and employee training that was completed;

7. Log of removal of animal waste sold or given to other persons for disposal;

8. Other specific information deemed necessary by the Department to implement the provisions of the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto;

9. Copy of general permit issued by the United States Environmental Protection Agency if applicable, a copy of the completed Pollution Prevention Plan, and other specific records deemed necessary by the Department to implement the provisions of the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto; and

10. The notarized statement signed by the applicant accepting full responsibility for properly closing all waste retention structures pursuant to subsection H of this section.

G. Any analyses required by the provisions of the Oklahoma Concentrated Animal Feeding Operations Act or rules promulgated pursuant thereto shall be performed by a qualified independent testing laboratory certified by the Oklahoma Department of Environmental Quality and approved by the Department.

H. The applicant shall sign a notarized statement accepting full responsibility for properly closing all waste retention structures if the facility ceases to function or is ordered to close by action of the Department. When a license is transferred, the new owner or lessee shall submit a signed notarized statement accepting full responsibility for properly closing all waste retention structures if the facility ceases to function or is ordered to close by action of the Department.

Added by Laws 2007, c. 31, § 35, eff. Nov. 1, 2007.

§2-20-48. Best Management Practices - Animal Waste Management Plans.

A. Animal feeding operations licensed pursuant to the provisions of the Oklahoma Concentrated Animal Feeding Operations Act shall utilize Best Management Practices, or may substitute for best management practice equivalent measures contained in a site-specific Animal Waste Management Plan meeting the conditions and requirements established by subsection C of this section and by rules promulgated by the Board pursuant to the Oklahoma Concentrated Animal Feeding Operations Act.

B. The criteria for Best Management Practices shall be promulgated by rule by the Board, based upon existing physical and economic conditions, opportunities and constraints and shall include, but not be limited to, the following:

1. There shall be no discharge of process wastewater to waters of the state except in accordance with the provisions of the Oklahoma Concentrated Animal Feeding Operations Act;

2. Animal waste shall be isolated from outside surface drainage by ditches, dikes, berms, terraces or other such structures except for a twenty-five-year, twenty-four-hour rainfall event;

3. No waters of the state shall come into direct contact with the animals confined on the animal feeding operation;

4. Animal waste handling, treatment, management and removal shall:

- a. not create an environmental or a public health hazard,
- b. not result in the contamination of public or private drinking water supplies,
- c. conform with Oklahoma Water Quality Standards,

- d. not violate any state or federal laws relating to endangered or threatened species of plant, fish or wildlife or to migratory birds,
- e. conform to such other handling, treatment and management and removal requirements deemed necessary by the Oklahoma Department of Agriculture, Food, and Forestry to implement the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto, and
- f. ensure that watersheds and groundwater are adequately protected;

5. If, for any reason, there is a discharge other than a spill of less than one hundred (100) gallons, the licensee is required to make immediate notification to the Department. The report of the discharge shall include:

- a. a description and cause of the discharge, including a description of the flow path to the receiving water body,
- b. an estimation of the flow rate and volume discharged,
- c. the period of discharge, including exact dates and times, and if not already corrected, the anticipated time the discharge is expected to continue,
- d. steps taken to reduce, eliminate and prevent recurrence of the discharge, and
- e. test results for fecal coliform bacteria, five-day biochemical oxygen demand (BOD5), total suspended solids (TSS), ammonia nitrogen, total Kjeldahl nitrogen (TKN), any pesticides which the operator has reason to believe could be in the discharge, or other parameters as required by the Department which the Department has reason to believe could be in the discharge;

6. Notwithstanding the provisions of paragraph 5 of this subsection, any spill that leaves the property owned or controlled by the licensee shall be reported to the Department regardless of total number of gallons spilled; and

7. The Department shall maintain records of all discharges and shall separately maintain records of all spills.

C. The Animal Waste Management Plan shall include at a minimum:

- 1. Animal waste removal procedures;
- 2. Records of inspections of retention structures, including, but not limited to, specific measurement of wastewater level;
- 3. All calculations in determining land application rates, acreage and crops for the land application rate of both solid and liquid animal wastes on land owned or controlled by the licensee;
- 4. Requirements including that:

- a. (1) land application of animal waste shall not exceed the nitrogen uptake of the crop coverage or

planned crop planting with any land application of wastewater or manure. Where local water quality is threatened by phosphorous, in no case shall the applicant or licensee exceed the application rates in the most current Natural Resources Conservation Service publication titled Waste Utilization Standard, and

- (2) timing and rate of applications shall be in response to crop needs, expected precipitation and soil conditions,
- b. land application practices shall be managed so as to reduce or minimize:
 - (1) the discharge of process water or animal waste to waters of the state,
 - (2) contamination of waters of the state, and
 - (3) odor,
- c. facilities including waste retention structures, waste storage sites, ponds, pipes, ditches, pumps, and diversion and irrigation equipment shall be maintained to ensure ability to fully comply with the terms of the Oklahoma Concentrated Animal Feeding Operations Act, and
- d. adequate equipment and land application area shall be available for removal of such waste and wastewater as required to maintain the proper operating volume of the retention structure; and

5. Such other information deemed necessary by the Department to administer the provisions of the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto.

D. Records shall be maintained of all animal wastes applied on land owned or controlled by the licensee, and sold or given to other persons for disposal.

E. Soils in areas in which animal waste is applied shall be analyzed, annually, for phosphates, nitrates and soil pH prior to the first application of the animal waste in the calendar year. A copy of the results of the analysis shall be submitted to the Department upon request by the Department. Such analysis shall be retained by the animal feeding operation as long as the facility is in operation.

F. Every animal feeding operation licensed pursuant to the provisions of Oklahoma Concentrated Animal Feeding Operations Act shall develop a plan approved by the Department for the disposal of carcasses associated with normal mortality.

1. Dead animals shall be disposed of in accordance with a carcass disposal plan developed by the applicant or licensee and approved by the Department.

2. The plan shall include provisions for the disposal of carcasses associated with normal mortality, with emergency disposal

when a major disease outbreak or other emergency results in deaths significantly higher than normal mortality rates and other provisions which will provide for a decrease in the possibility of the spread of disease and prevent the contamination of waters of the state. The plan shall comply with rules promulgated by the Department.
Added by Laws 2007, c. 31, § 36, eff. Nov. 1, 2007.

§2-20-49. Renumbered as § 20-23 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§2-20-50. Prevention of hydrologic connection between wastewaters and waters of state.

A. Any hydrologic connection between wastewater and waters of the state outside that authorized by the provisions of the Oklahoma Concentrated Animal Feeding Operations Act shall constitute a discharge to waters of the state.

B. Site-specific conditions shall be considered in the design and construction of liners. Liners for retention structures shall be designed and constructed in accordance with the provisions of this section and generally accepted engineering practices established by rules of the Board or as required by the federal Environmental Protection Agency. Liners for lagoons owned or operated by an animal feeding operation with less than one thousand (1,000) animal units may be designed and constructed pursuant to Technical Note 716 of the United States Department of Agriculture Natural Resources Conservation Service or its current equivalent so long as the facility is designed by the United States Department of Agriculture Natural Resources Conservation Service.

C. 1. When a liner is installed to prevent hydrologic connection, the licensee or the owner shall maintain the liner to inhibit infiltration of wastewaters. Documentation of liner maintenance shall be maintained at the facility.

2. An environmental, agricultural, or other approved professional engineer licensed pursuant to Section 475.12 of Title 59 of the Oklahoma Statutes shall conduct a site evaluation every five (5) years on the retention structure of every concentrated animal feeding operation with such a structure to ensure liner integrity. If the owner or operator suspects that a retention structure is leaking, the owner or operator shall report suspected leakage to the Department.

D. All substances entering the retention structures shall be composed entirely of wastewaters from the proper operation and maintenance of an animal feeding operation and the runoff from the animal feeding operation area. The disposal of any materials, other than substances associated with proper operation and maintenance of the facility into the containment structures, including but not limited to human waste, is prohibited.

E. Documentation, sampling data, and any other records required by this section shall be maintained on site for as long as the facility is in operation. Samples collected during the first year of the retention structure may be considered the baseline data and shall be retained on site as long as the facility is in operation. Baseline data for the facility shall be determined based on the best information available.

Added by Laws 2007, c. 31, § 37, eff. Nov. 1, 2007.

§2-20-51. Irrigation systems.

A. All irrigation systems into which any animal waste will be injected shall be equipped with one or both of the following systems:

1. An antipollution system, approved by the State Board of Agriculture, capable of preventing the backflow of animal waste into the groundwater. The system shall include a safety check valve with a removable inspection port, anti-syphon vent, and low-pressure escape drain. An interlock device shall be installed on pumps that pump the animal waste so that if a fresh water irrigation pump shuts down, the pump that pumps the animal waste will also immediately shut down, preventing the chance of leakage past the check valve; or

2. A system which provides for a complete and total disconnection between the flow of fresh water and the flow of animal waste. The system shall be capable of a manual disconnection between fresh water and the animal waste.

B. The Oklahoma Department of Agriculture, Food, and Forestry shall make annual on-site inspections examining the operative status of the check valves and interlock devices.

C. The operator of the irrigation system shall be responsible to ensure:

1. That the valves and interlock devices remain operative between annual inspections by the Oklahoma Department of Agriculture, Food, and Forestry; or

2. Complete disconnection from fresh water when introducing animal waste into the system.

Added by Laws 2007, c. 31, § 38, eff. Nov. 1, 2007.

§2-20-52. Investigations and inspections.

A. The State Board of Agriculture or its authorized agents are empowered to enter upon the premises of any animal feeding operation for the purpose of investigating complaints as to the operation or to determine whether there are any violations of the Oklahoma Concentrated Animal Feeding Operations Act. The Department shall make at least one unannounced inspection per year of every animal feeding operation licensed pursuant to the Oklahoma Concentrated Animal Feeding Operations Act.

B. 1. The Board shall promulgate standard precautions for the prevention of the transmission of communicable diseases to humans and

animals to be used by employees of the Department of Agriculture, Food, and Forestry when inspecting animal feeding operations pursuant to their official duties specified by the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto.

2. Except for emergency situations or when enforcement of the provisions of the Oklahoma Concentrated Animal Feeding Operations Act requires the use of the standard precautions as promulgated by the Board pursuant to paragraph 1 of this subsection, Department employees shall observe the health standards and sanitary requirements of the facility.

C. The Board shall maintain necessary records and undertake such studies, investigations and surveys for the proper administration of the Oklahoma Concentrated Animal Feeding Operations Act.

Added by Laws 2007, c. 31, § 39, eff. Nov. 1, 2007.

§2-20-53. License required for operation - Jurisdiction of Department of Environmental Quality.

A. 1. It shall be unlawful for any person to operate a concentrated animal feeding operation without first obtaining a license from the State Board of Agriculture.

2. The owner or operator of an animal feeding operation not classified as a concentrated animal feeding operation may apply for a license if the owner or operator elects to come under the provisions of the Oklahoma Concentrated Animal Feeding Operations Act and the rules of the State Board of Agriculture.

B. 1. The Department of Environmental Quality shall have environmental jurisdiction over:

- a. commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mill and other agricultural products,
- b. slaughterhouses, but not including feedlots at these facilities, and
- c. aquaculture and fish hatcheries, including, but not limited to, discharges of pollutants and storm water to waters of the state, surface impoundments and land application of wastes and sludge, and other pollution originating at these facilities.

2. Facilities storing grain, feed, seed, fertilizer, and agricultural chemicals that are required by federal National Pollutant Discharge Elimination System regulations to obtain a permit for storm water discharges shall only be subject to the jurisdiction of the Department of Environmental Quality with respect to storm water discharges.

Added by Laws 2007, c. 31, § 40, eff. Nov. 1, 2007.

§2-20-54. Expiration and renewal of licenses - Fees.

A. Licenses shall expire on June 30 of each year and may be renewed upon payment of the license fee set forth in this section and continued compliance with the provisions of the Oklahoma Concentrated Animal Feeding Operations Act and the rules of the Board.

B. The fees for an animal feeding operations license and annual renewal shall be:

1. Fifteen Dollars (\$15.00) for facilities with a capacity of less than two hundred fifty (250) animal units;

2. Thirty-seven Dollars and fifty cents (\$37.50) for facilities with a capacity of two hundred fifty (250) to five hundred (500) animal units;

3. Seventy-five Dollars (\$75.00) for facilities with a capacity of five hundred one (501) to three thousand (3,000) animal units;

4. One Hundred Fifty Dollars (\$150.00) for facilities with a capacity of three thousand one (3,001) to ten thousand (10,000) animal units; or

5. Two Hundred Twenty-five Dollars (\$225.00) for facilities with a capacity of more than ten thousand (10,000) animal units.

C. All fees received by the Board for licensure of animal feeding operations pursuant to this section shall be deposited in the State Department of Agriculture Revolving Fund.

Added by Laws 2007, c. 31, § 41, eff. Nov. 1, 2007.

§2-20-55. Evidence of financial ability.

A. Any person who is licensed to operate an animal feeding operation with a liquid animal waste management system within this state shall furnish to the Oklahoma Department of Agriculture, Food, and Forestry evidence of financial ability to comply with the requirements for closure of retention structures and other waste facilities as established pursuant to the provisions of this section and rules promulgated by the State Board of Agriculture.

B. 1. To establish evidence of financial ability the Department shall require:

a. Category A surety which shall include a financial statement listing assets and liabilities and including a general release that the information may be verified with banks and other financial institutions. The financial statement shall be confidential and shall not be opened to public inspection. The statement shall prove a net worth of not less than:

(1) Ten Thousand Dollars (\$10,000.00) for any animal feeding operation licensed pursuant to the Oklahoma Concentrated Animal Feeding Operations Act having a capacity of more than three hundred (300) animal units but having one thousand (1,000) animal units or less,

- (2) Twenty-five Thousand Dollars (\$25,000.00) for any animal feeding operation licensed pursuant to the Oklahoma Concentrated Animal Feeding Operations Act having a capacity of more than one thousand (1,000) animal units but less than two thousand (2,000) animal units, or
 - (3) Fifty Thousand Dollars (\$50,000.00) for any animal feeding operation licensed pursuant to the Oklahoma Concentrated Animal Feeding Operations Act having a capacity of more than two thousand (2,000) animal units, or
- b. Category B surety which shall include an irrevocable commercial letter of credit, cash, a cashier's check, a Certificate of Deposit, Bank Joint Custody Receipt, other negotiable instrument or a blanket surety bond. Except as provided in paragraph 2 of this subsection, amount of such letter of credit, cash, check, certificate, bond, receipt or other negotiable instrument shall be in the amount of Twenty-five Thousand Dollars (\$25,000.00). The Department is authorized to determine the amount of Category B surety based upon the past performance of the owner or operator regarding compliance with the laws of this state, and any rules promulgated pursuant thereto. Any instrument shall constitute an unconditional promise to pay and be in a form negotiable by the Department.

2. The Department upon certification by any animal feeding operation subject to Category B surety that its liability statewide is less than the twenty-five-thousand-dollar standard specified in this section may allow the owner or operator to provide Category B type surety in an amount less than the required Twenty-five Thousand Dollars (\$25,000.00), but at least sufficient to cover the estimated cost of all closure and removal operations currently the responsibility of that owner or operator.

C. 1. Any animal feeding operation licensed pursuant to the provisions of the Oklahoma Concentrated Animal Feeding Operations Act which does not have any outstanding contempt citations or fines may post Category A surety.

2. Any animal feeding operation licensed pursuant to the provisions of the Oklahoma Concentrated Animal Feeding Operations Act which does have outstanding fines or contempt citations shall be required to post Category B surety. Animal feeding operations which have posted Category B surety and have operated under this type surety and have no outstanding fines at the end of three (3) years may post Category A surety.

D. For good cause shown concerning pollution by the animal feeding operations posting either Category A or B surety, the

Department, after notice and hearing, may require the filing of additional Category B surety in an amount greater than Twenty-five Thousand Dollars (\$25,000.00) but not to exceed Five Dollars (\$5.00) times the number of animal units for the facility being licensed.

E. 1. If the Department, after notice and an opportunity for hearing, determines that the animal feeding operation licensed pursuant to the provisions of the Oklahoma Concentrated Animal Feeding Operations Act has neglected, failed, or refused to close any surface impoundment, or remove or cause to be removed any equipment, or has abandoned the facility, then the animal feeding operation shall be deemed to have forfeited the letter of credit or negotiable instrument required by this section or shall pay to this state, for deposit in the State Treasury, a sum equal to the cost of closure of any surface impoundment or removal of equipment.

2. The Department may cause the remedial work to be done, issuing a warrant in payment of the cost thereof drawn against the monies accruing in the State Treasury from the forfeiture or payment.

3. The Department shall also recover any costs arising from litigation to enforce this provision. Provided, before an animal feeding operation is required to forfeit or pay any monies to the state pursuant to this section, the Department shall notify the animal feeding operation at the last-known address of the determination of neglect, failure or refusal to close any surface impoundment or remove equipment and the animal feeding operation shall have ten (10) days from the date of notification within which to commence remedial operations. Failure to commence remedial operations shall result in forfeiture or payment as provided in this subsection.

F. If title to an animal feeding operation is transferred, the transferee shall furnish the evidence of financial ability to close surface impoundments required by the provisions of this section prior to the transfer.

Added by Laws 2007, c. 31, § 42, eff. Nov. 1, 2007.

§2-20-56. Duties of owners and operators - Nuisance.

A. In addition to any other requirement of the Oklahoma Concentrated Animal Feeding Operations Act, animal feeding operations owners and operators who are granted an animal feeding operations license shall:

1. Provide adequate veterinarian services for detection, control, and elimination of livestock diseases;

2. Have available for use at all necessary times mechanical means of scraping, cleaning, and grading feed yards premises; and

3. Provide weather resistant aprons adjacent to all permanently affixed feed bunks, water tanks, and feeding devices.

B. 1. Any animal feeding operation licensed pursuant to the Oklahoma Concentrated Animal Feeding Operations Act, operated in

compliance with those standards, and in compliance with the rules promulgated by the Board, shall be deemed to be prima facie evidence that a nuisance does not exist; provided, no animal feeding operation shall be located or operated in violation of any zoning regulations.

2. Any animal feeding operation licensed pursuant to the Oklahoma Concentrated Animal Feeding Operations Act, operated in compliance with those standards, and in compliance with rules promulgated by the Board, that is located on land more than three (3) miles outside the incorporated limits of any municipality and which is not located within one (1) mile of ten or more occupied residences shall not be deemed a nuisance unless it is shown by a preponderance of the evidence that the operation endangers the health or safety of others.

Added by Laws 2007, c. 31, § 43, eff. Nov. 1, 2007.

§2-20-57. Setback requirements.

A. Except as authorized by this subsection, no liquid animal waste shall be land applied within five hundred (500) feet of the nearest corner of an occupied residence not owned or leased by the owner of the animal feeding operation.

B. Except as provided by Section 20-58 of this title, no concentrated animal feeding operation shall be established after September 1, 1997, which is within one (1) mile of ten or more residences that are occupied residences at the time of the establishment of the concentrated animal feeding operation.

C. The proscription contained in subsections A and B of this section shall not apply if the applicable property owner executes a written waiver with the owner or operator of the animal 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 and B of this section. A change in ownership of the applicable property or change in the ownership of the property on which the animal feeding operation is located shall not affect the validity of the waiver.

D. No liquid animal waste shall be land applied within three hundred (300) feet of an existing public or private drinking water well.

E. Except as provided by Section 20-58 of this title, no concentrated animal feeding operation shall be established after September 1, 1997, which is located:

1. Within three (3) miles of a state park or resort;

2. On land within three (3) miles of the incorporated limits of any municipality, unless the municipality's governing body executes a written waiver of the setback for the particular animal feeding operation. A change in ownership of the property on which the animal

feeding operation is located shall not affect the validity of the waiver;

3. Within three (3) miles of the high water mark of a surface public water supply if the concentrated animal feeding operation is located within the drainage basin for the public water supply.

F. All distances between occupied residences and animal feeding operations shall be measured from the closest corner of the walls of the occupied residence to the closest point of the nearest waste facility, as determined by the Oklahoma Department of Agriculture, Food, and Forestry. The property boundary line of the real property is not used unless it coincides with the closest point of the waste facility or occupied residence.

Added by Laws 2007, c. 31, § 44, eff. Nov. 1, 2007. Amended by Laws 2017, c. 215, § 1, eff. Nov. 1, 2017.

§2-20-58. Setback requirements - Certain feeding operations exempt.

Animal feeding operations, other than a concentrated animal feeding operation, not licensed pursuant to the provisions of the Oklahoma Feed Yards Act in operation on the effective date of this act shall not be subject to any setback requirements not in effect on the date of past construction.

Added by Laws 2007, c. 31, § 45, eff. Nov. 1, 2007.

§2-20-59. Prohibition of construction of feeding operations within certain distance upstream of Pensacola Project boundary.

The Oklahoma Department of Agriculture, Food, and Forestry shall not accept or approve any pending applications requesting permits for construction of any concentrated animal feeding operation to be located within one (1) mile upstream of the Pensacola Project boundary as described in the records of the Grand River Dam Authority and the Federal Emergency Management Agency. Any operation authorized or permitted prior to April 17, 2002, shall not be affected by the provisions of this section.

Added by Laws 2007, c. 31, § 46, eff. Nov. 1, 2007.

§2-20-60. Exceeding animal unit capacity - Criteria - Notice.

A. A concentrated animal feeding operation may exceed its animal unit capacity if:

1. A diseased or potentially diseased animal exists at the operation; or

2. A diseased or potentially diseased animal is in the next destination for the production line for the operation; and

3. The owner of the concentrated animal feeding operation has reasonable cause to believe an animal has or may have any disease causing:

a. a public health emergency,

- b. a substantial and imminent economic hardship to the owner, or
- c. a substantial and imminent threat to the animal population of the state, or

4. The State Board of Agriculture issues an order establishing temporary restrictions, a quarantine, or a quarantine zone restricting the movement of persons, livestock, machinery, and personal property out of a concentrated animal feeding operation.

B. In no case shall an animal unit capacity be exceeded for more than five (5) days following a confirmatory test indicating that either the animal is diseased or is not diseased. A confirmatory test shall be performed within twenty (20) days of discovery that a diseased or potentially diseased animal exists at the operation.

C. The owner of a concentrated animal feeding operation shall provide written notification to the Oklahoma Department of Agriculture, Food, and Forestry upon discovery of a diseased or potentially diseased animal pursuant to subsection A of this section that may result in the animal unit capacity being exceeded.

D. The notice shall:

1. Identify the concentrated animal feeding operation that may exceed its animal unit capacity; and

2. Include an estimate of the number of animals exceeding the animal unit capacity at the concentrated animal feeding operation.

Added by Laws 2007, c. 31, § 47, eff. Nov. 1, 2007.

§2-20-61. Violation points system - Denial, suspension or revocation of license.

A. 1. The Board is authorized and directed to promulgate a violation points system for violating the Oklahoma Concentrated Animal Feeding Operations Act which provides greater punishment for violations which are intentional and for violations which pose a greater threat to the environment.

2. The State Board of Agriculture shall have the power to suspend, revoke or not renew the license of any animal feeding operation based on the point system after a hearing, and after an administrative determination that the animal feeding operation has violated or has failed to comply with any of the provisions of the Oklahoma Concentrated Animal Feeding Operations Act, or any rule promulgated pursuant thereto.

3. The Board shall have the power and duty to reinstate any such suspended or revoked licenses, or renew the licenses, upon a satisfactory and acceptable showing and assurance that the animal feeding operation conducted animal feeding operations in conformity with, and in compliance with, the provisions of the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto, and that such conformity and compliance will be continuous.

B. In order to protect the public health and safety and the environment of this state, the Board, pursuant to the Oklahoma Concentrated Animal Feeding Operations Act, may deny issuance of a license or transfer of a license to establish and operate an animal feeding operation on and after September 1, 1997, to any person or other legal entity which:

1. Is not in substantial compliance with a final agency order or any final order or judgment of a court of record secured by any state or federal agency relating to animal feeding operations; or

2. Has evidenced a reckless disregard for the protection of the public and the environment as demonstrated by a history of noncompliance with environmental laws and rules resulting in endangerment of human health or the environment.

C. Any action taken in regard to the denial, suspension or revocation of a license shall be in conformity with the rules of the Board governing Administrative Procedures and the Administrative Procedures Act.

Added by Laws 2007, c. 31, § 48, eff. Nov. 1, 2007.

§2-20-62. Penalties.

A. Any person violating the provisions of the Oklahoma Concentrated Animal Feeding Operations Act or any rule of the Board promulgated pursuant thereto shall, upon conviction, be deemed guilty of a misdemeanor and upon conviction thereof may be punished by a fine not exceeding Two Hundred Dollars (\$200.00).

B. Any owner or operator who fails to take such action as may be reasonable and necessary to avoid pollution of any stream, lake, river or creek, except as otherwise provided by law, or who violates any rule of the Board adopted to prevent water pollution from animal feeding operations pursuant to this act shall, upon conviction, be deemed guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of Five Hundred Dollars (\$500.00) to Ten Thousand Dollars (\$10,000.00) for each violation, by imprisonment in the county jail for not more than six (6) months for each violation, or by the assessment of a civil penalty up to Ten Thousand Dollars (\$10,000.00) for each violation or by any of such fine, imprisonment, and civil penalty.

C. 1. In addition to the criminal and civil penalties specified by this section, the Oklahoma Department of Agriculture, Food, and Forestry may:

a. assess an administrative penalty of not more than Ten Thousand Dollars (\$10,000.00) per day of noncompliance, or

b. bring an action for injunctive relief granted by a district court.

2. A district court may grant injunctive relief to prevent a violation of, or to compel compliance with, any of the provisions of

the Oklahoma Concentrated Animal Feeding Operations Act or any rule promulgated thereunder or order, license or permit issued pursuant to the Oklahoma Concentrated Animal Feeding Operations Act.

3. Nothing in this section shall preclude the Department from seeking penalties in district court in the maximum amount allowed by law. The assessment of penalties in an administrative enforcement proceeding shall not prevent the subsequent assessment by a court of the maximum civil or criminal penalties for violations of the Oklahoma Concentrated Animal Feeding Operations Act.

D. Any person assessed an administrative or civil penalty may be required to pay, in addition to such penalty amount and interest thereon, attorney fees and costs associated with the collection of such penalties.

E. The Attorney General or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of the Oklahoma Concentrated Animal Feeding Operations Act or any rule promulgated thereunder, or order, license or permit issued pursuant thereto.

F. 1. Any action for injunctive relief to redress or restrain a violation by any person of the Oklahoma Concentrated Animal Feeding Operations Act or for any rule promulgated thereunder, or order, license, or permit issued pursuant thereto or recovery of any administrative or civil penalty assessed pursuant to the Oklahoma Concentrated Animal Feeding Operations Act may be brought by:

- a. the district attorney of the appropriate district court of the State of Oklahoma,
- b. the Attorney General on behalf of the State of Oklahoma, or
- c. the Department on behalf of the State of Oklahoma.

2. The court shall have jurisdiction to determine said action, and to grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

3. It shall be the duty of the Attorney General and district attorney, if requested by the Commissioner of Agriculture, to bring such actions.

G. Except as otherwise provided by law, administrative and civil penalties shall be paid into the Department of Agriculture Revolving Fund.

H. In determining the amount of a civil penalty or administrative penalty, the court or the Department, as the case may be, shall consider such factors as the nature, circumstances and gravity of the violation or violations, the economic benefit, if any, resulting to the defendant from the violation, the history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the defendant,

the defendant's degree of culpability, and such other matters as justice may require.

I. For the purposes of this section, each day upon which a violation is committed or is permitted to continue shall be deemed a separate offense.

J. In addition to other penalties as may be imposed by law, any person who knowingly makes any false statement, representation or certification in any water pollution form, notice or report, or who knowingly renders inaccurate any monitoring device or method required to be maintained by any water pollution rules promulgated by the Board shall, upon conviction, be guilty of a misdemeanor and may be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) for each violation.

Added by Laws 2007, c. 31, § 49, eff. Nov. 1, 2007.

§2-20-63. Poultry-laying operations.

A. Due to the inherently unique nature of poultry-laying operations, and the increased propensity for vector propagation at such facilities, poultry-laying operations licensed pursuant to the Oklahoma Concentrated Animal Feeding Operations Act, shall be conducted only in a manner as prescribed by the State Department of Agriculture by rule promulgated pursuant to this section and the Oklahoma Concentrated Animal Feeding Operations Act.

B. If three valid complaints are received by the Department against a poultry-laying operation, licensed pursuant to the Oklahoma Concentrated Animal Feeding Operations Act, within a period of sixty (60) days, the Oklahoma Department of Agriculture, Food, and Forestry, upon inspection and verification of the complaint, shall declare that an emergency exists.

C. Whenever the Department finds that an emergency exists requiring immediate action to protect the public health or welfare or the environment pursuant to this subsection, the Department may without notice or hearing issue an order, effective upon issuance, reciting the existence of such an emergency and requiring that such action be taken as deemed necessary to meet the emergency. Any person to whom such an order is directed shall comply therewith immediately but may request an administrative enforcement hearing thereon within fifteen (15) days after the order is served. The hearing shall be held by the Department within ten (10) days after receipt of the request. On the basis of the hearing record, the Department shall sustain or modify such order.

D. If, at the hearing, it is determined that the operator is in violation of the provisions of this section and rules promulgated pursuant thereto, in addition to other administrative penalties authorized by law, the Department may order that the operator be prohibited from land applying waste for one hundred sixty (160) days after determination that the facility is in violation.

E. Any party aggrieved by a final order may petition the Department for rehearing, reopening or reconsideration within ten (10) days from the date of the entry of the final order. Any party aggrieved by a final order, including the Attorney General on behalf of the state, may, pursuant to the Administrative Procedures Act, petition for a judicial review thereof.

F. The provisions of this section may be enforced pursuant to the provisions of Section 49 of this act.
Added by Laws 1998, c. 404, § 19, emerg. eff. June 10, 1998. Amended by Laws 1999, c. 231, § 2, emerg. eff. May 26, 1999. Renumbered from § 9-212.1 of this title by Laws 2005, c. 292, § 25, eff. July 1, 2005. Amended by Laws 2007, c. 31, § 26, eff. Nov. 1, 2007. Renumbered from § 20-27 of this title by Laws 2007, c. 31, § 51, eff. Nov. 1, 2007.

§2-20-64. Codification.

The Oklahoma Concentrated Animal Feeding Operations Act shall be enacted as a part of the Agricultural Code and shall be codified accordingly.

Added by Laws 2007, c. 31, § 50, eff. Nov. 1, 2007.

§2-21.2. Pack-date and expiration date - Regrading and repacking.

(a) A pack-date may be in a three-digit julian date or a calendar date.

(b) If an expiration date is used on the container, the date shall be preceded by EXP.

(c) Eggs removed from sale as a result of the expiration date on the container may be regraded and repacked if such eggs comply with grade standards.

Laws 1959, p. 5, § 1.

§2-31. Renumbered as § 15-1 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-32. Renumbered as § 15-2 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-33. Renumbered as § 15-3 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-34. Renumbered as § 15-4 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-35. Renumbered as § 15-5 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-36. Renumbered as § 15-6 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-37. Renumbered as § 15-7 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-38. Renumbered as § 15-8 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-39. Renumbered as § 15-9 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-40. Renumbered as § 15-10 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-41. Renumbered as § 15-11 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-42. Renumbered as § 15-12 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-44. Renumbered as § 15-13 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-45. Renumbered as § 15-14 of this title by Laws 2001, c. 146, § 267, emerg. eff. April 30, 2001.

§2-51. Repealed by Laws 1999, c. 50, § 3, emerg. eff. April 5, 1999.

§2-52. Repealed by Laws 1999, c. 50, § 3, emerg. eff. April 5, 1999.

§2-53. Repealed by Laws 1999, c. 50, § 3, emerg. eff. April 5, 1999.

§2-54. Repealed by Laws 1999, c. 50, § 3, emerg. eff. April 5, 1999.

§2-55. Repealed by Laws 1999, c. 50, § 3, emerg. eff. April 5, 1999.

§2-56. Repealed by Laws 1999, c. 50, § 3, emerg. eff. April 5, 1999.

§2-57. Repealed by Laws 1999, c. 50, § 3, emerg. eff. April 5, 1999.

§2-58. Repealed by Laws 1999, c. 50, § 3, emerg. eff. April 5, 1999.

§2-59. Repealed by Laws 1999, c. 50, § 3, emerg. eff. April 5, 1999.

§2-60. Repealed by Laws 1999, c. 50, § 3, emerg. eff. April 5, 1999.

§2-61. Repealed by Laws 1999, c. 50, § 3, emerg. eff. April 5, 1999.

§2-62. Repealed by Laws 1999, c. 50, § 3, emerg. eff. April 5, 1999.

§2-71. Renumbered as § 15-21 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-72. Renumbered as § 15-22 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-73. Renumbered as § 15-23 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-74. Renumbered as § 15-24 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-75. Renumbered as § 15-25 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-76. Renumbered as § 15-26 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-77. Renumbered as § 15-27 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-78. Renumbered as § 15-28 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-79. Renumbered as § 15-29 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-80. Renumbered as § 15-30 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-81. Renumbered as § 15-31 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-82. Renumbered as § 15-32 of this title by Laws 2001, c. 146, § 268, emerg. eff. April 30, 2001.

§2-91. Renumbered as § 15-51 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-91.1. Renumbered as § 15-52 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-92. Renumbered as § 15-53 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-93. Renumbered as § 15-54 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-94. Renumbered as § 15-55 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-95. Renumbered as § 15-56 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-96. Renumbered as § 15-57 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-97. Renumbered as § 15-58 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-98. Renumbered as § 15-59 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-99. Renumbered as § 15-60 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-100. Renumbered as § 15-61 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-101. Renumbered as § 15-62 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-102. Renumbered as § 15-63 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-103. Renumbered as § 15-64 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-104. Renumbered as § 15-65 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-104a. Renumbered as § 15-66 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-104b. Renumbered as § 15-67 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-104c. Renumbered as § 15-68 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-104d. Renumbered as § 15-69 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-104e. Renumbered as § 15-70 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-104e.1. Renumbered as § 15-71 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-104f. Renumbered as § 15-72 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-104g. Renumbered as § 15-73 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-104h. Renumbered as § 15-74 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-104i. Renumbered as § 15-75 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-104j. Renumbered as § 15-76 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-104k. Renumbered as § 15-77 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-104l. Repealed by Laws 1992, c. 120, § 3, emerg. eff. April 23, 1992.

§2-104m. Renumbered as § 15-78 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-104n. Renumbered as § 15-79 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-105. Renumbered as § 15-80 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-106. Renumbered as § 15-81 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-107. Renumbered as § 15-82 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-108. Renumbered as § 15-83 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-109. Renumbered as § 15-84 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-110. Renumbered as § 15-85 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-111. Renumbered as § 15-86 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-112. Renumbered as § 15-87 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-113. Renumbered as § 15-88 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-114. Renumbered as § 15-89 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-115. Renumbered as § 15-90 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-116. Renumbered as § 15-91 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-117. Renumbered as § 15-92 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-118. Renumbered as § 15-93 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-119. Renumbered as § 15-94 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-120. Renumbered as § 15-95 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-121. Renumbered as § 15-96 of this title by Laws 2001, c. 146, § 269, emerg. eff. April 30, 2001.

§2-131.1. Renumbered as § 15-111 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-131.2. Renumbered as § 15-112 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-131.3. Repealed by Laws 1993, c. 114, § 4, eff. Sept. 1, 1993.

§2-131.3A. Renumbered as § 15-113 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-131.4. Renumbered as § 15-114 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-131.5. Renumbered as § 15-115 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-131.6. Renumbered as § 15-116 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-131.7. Renumbered as § 15-117 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-131.8. Renumbered as § 15-118 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-131.9. Renumbered as § 15-119 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-131.10. Renumbered as § 15-120 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-131.11. Renumbered as § 15-121 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-131.12. Renumbered as § 15-122 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-131.13. Renumbered as § 15-123 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-131.14. Renumbered as § 15-124 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-131.15. Renumbered as § 15-125 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-131.16. Renumbered as § 15-126 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-131.17. Renumbered as § 15-127 of this title by Laws 2001, c. 146, § 270, emerg. eff. April 30, 2001.

§2-131.18. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.

§2-157.1. Renumbered as § 15-141 of this title by Laws 2001, c. 146, § 271, emerg. eff. April 30, 2001.

§2-157.2. Renumbered as § 15-142 of this title by Laws 2001, c. 146, § 271, emerg. eff. April 30, 2001.

§2-157.3. Renumbered as § 15-143 of this title by Laws 2001, c. 146, § 271, emerg. eff. April 30, 2001.

§2-157.4. Renumbered as § 15-144 of this title by Laws 2001, c. 146, § 271, emerg. eff. April 30, 2001.

§2-157.5. Renumbered as § 15-145 of this title by Laws 2001, c. 146, § 271, emerg. eff. April 30, 2001.

§2-157.6. Renumbered as § 15-146 of this title by Laws 2001, c. 146, § 271, emerg. eff. April 30, 2001.

§2-157.7. Renumbered as § 15-147 of this title by Laws 2001, c. 146, § 271, emerg. eff. April 30, 2001.

§2-157.8. Repealed by Laws 1980, c. 68, § 1, emerg. eff. April 10, 1980.

§2-157.9. Repealed by Laws 1989, c. 154, § 2, operative July 1, 1985.

§2-161. Renumbered as § 15-161 of this title by Laws 2001, c. 146, § 272, emerg. eff. April 30, 2001.

§2-162. Renumbered as § 15-162 of this title by Laws 2001, c. 146, § 272, emerg. eff. April 30, 2001.

§2-163. Renumbered as § 15-163 of this title by Laws 2001, c. 146, § 272, emerg. eff. April 30, 2001.

§2-247. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.

§2-248. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.

§2-250. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.

§2-331. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-332. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-333. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-334. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-335. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-336. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-337. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-338. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-339. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-340. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-341. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-342. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-343. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-344. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-345. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-346. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-347. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-348. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-349. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-350. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-351. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-352. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-353. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-354. Repealed by Laws 2001, c. 38, § 25, eff. Nov. 1, 2001.

§2-361. Renumbered as § 17-1 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-361a. Renumbered as § 17-2 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-361b. Renumbered as § 17-3 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-361c. Renumbered as § 17-4 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-361d. Renumbered as § 17-5 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-361e. Renumbered as § 17-6 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-361f. Renumbered as § 17-7 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-361g. Renumbered as § 17-8 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-361h. Renumbered as § 17-9 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-361i. Renumbered as § 17-10 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-361j. Renumbered as § 17-11 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-361k. Renumbered as § 17-12 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-361 l. Renumbered as § 17-13 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-361m. Renumbered as § 17-14 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-361n. Renumbered as § 17-15 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-361o. Renumbered as § 17-16 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-361p. Renumbered as § 17-17 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-361q. Renumbered as § 17-18 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-361r. Renumbered as § 17-19 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-361s. Renumbered as § 17-20 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-361t. Renumbered as § 17-21 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-361u. Renumbered as § 17-22 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-361v. Renumbered as § 17-23 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-361w. Renumbered as § 17-24 of this title by Laws 2001, c. 38, § 26, eff. Nov. 1, 2001.

§2-738.1. Renumbered as § 10-91 of this title by Laws 2001, c. 146, § 246, emerg. eff. April 30, 2001.

§2-738.2. Renumbered as § 10-92 of this title by Laws 2001, c. 146, § 246, emerg. eff. April 30, 2001.

§2-738.3. Renumbered as § 10-93 of this title by Laws 2001, c. 146, § 246, emerg. eff. April 30, 2001.

§2-738.4. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.

§2-738.5. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.

§2-741. Repealed by Laws 2001, c. 113, § 57, emerg. eff. April 18, 2001.

§2-742. Repealed by Laws 2001, c. 113, § 57, emerg. eff. April 18, 2001.

§2-743. Repealed by Laws 2001, c. 208, § 6, emerg. eff. May 14, 2001.

NOTE: Prior to repeal this section was amended by Laws 2001, c. 113, § 1, and renumbered as § 16-29 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001, to read as follows:

If any fire, set as provided in Section 16-28 of this title, should by accident and without any fault or neglect of the person setting the fire, get beyond the person's control, the person shall be liable as provided in Section 16-25 of this title for all damages done by the fire, but not otherwise. If the fire should by negligence, carelessness, or by intention be permitted to spread beyond the bounds of the land mentioned in Section 16-28 of this title, then the person setting the fire shall be liable both civilly and criminally as provided in Section 16-25 of this title.

§2-744. Repealed by Laws 2001, c. 113, § 57, emerg. eff. April 18, 2001.

§2-745. Repealed by Laws 2001, c. 113, § 57, emerg. eff. April 18, 2001.

§2-746. Repealed by Laws 2001, c. 113, § 57, emerg. eff. April 18, 2001.

§2-747. Repealed by Laws 2001, c. 113, § 57, emerg. eff. April 18, 2001.

§2-748. Renumbered as Section 16-40 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-751. Renumbered as § 7-21 of this title by Laws 2001, c. 146, § 247, emerg. eff. April 30, 2001.

§2-752. Renumbered as § 7-22 of this title by Laws 2001, c. 146, § 247, emerg. eff. April 30, 2001.

§2-753. Renumbered as § 7-23 of this title by Laws 2001, c. 146, § 247, emerg. eff. April 30, 2001.

§2-754. Renumbered as § 7-24 of this title by Laws 2001, c. 146, § 247, emerg. eff. April 30, 2001.

§2-755. Renumbered as § 7-25 of this title by Laws 2001, c. 146, § 247, emerg. eff. April 30, 2001.

§2-756. Renumbered as § 7-26 of this title by Laws 2001, c. 146, § 247, emerg. eff. April 30, 2001.

§2-788.1. Renumbered as § 8-31 of this title by Laws 2001, c. 146, § 248, emerg. eff. April 30, 2001.

§2-788.2. Renumbered as § 8-32 of this title by Laws 2001, c. 146, § 248, emerg. eff. April 30, 2001.

§2-788.3. Renumbered as § 8-33 of this title by Laws 2001, c. 146, § 248, emerg. eff. April 30, 2001.

§2-788.4. Renumbered as § 8-34 of this title by Laws 2001, c. 146, § 248, emerg. eff. April 30, 2001.

§2-788.5. Renumbered as § 8-35 of this title by Laws 2001, c. 146, § 248, emerg. eff. April 30, 2001.

§2-788.6. Renumbered as § 8-36 of this title by Laws 2001, c. 146, § 248, emerg. eff. April 30, 2001.

§2-791. Renumbered as § 8-36.1 of this title by Laws 2001, c. 146, § 248, emerg. eff. April 30, 2001.

§2-792. Renumbered as § 8-36.2 of this title by Laws 2001, c. 146, § 248, emerg. eff. April 30, 2001.

§2-793. Renumbered as § 8-36.3 of this title by Laws 2001, c. 146, § 248, emerg. eff. April 30, 2001.

§2-794. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.

§2-951. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.

§2-952. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.

§2-953. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.

§2-1021. Renumbered as § 18-300 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001.

§2-1022. Renumbered as § 18-301 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001.

§2-1023. Renumbered as § 18-302 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001.

§2-1024. Renumbered as § 18-303 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001.

§2-1025. Renumbered as § 18-304 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001.

§2-1027. Renumbered as § 18-305 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001.

§2-1028. Renumbered as § 18-306 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001.

§2-1029. Renumbered as § 18-307 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001.

§2-1030. Renumbered as § 18-308 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001.

§2-1031. Renumbered as § 18-309 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001.

§2-1032. Renumbered as § 18-310 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001.

§2-1033. Renumbered as § 18-311 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001.

§2-1034. Renumbered as § 18-312 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001.

§2-1035. Renumbered as § 18-313 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001.

§2-1036. Renumbered as § 18-314 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001.

§2-1036.1. Renumbered as § 18-315 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001.

§2-1037. Renumbered as § 18-316 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001.

§2-1038. Renumbered as § 18-317 of this title by Laws 2001, c. 146, § 250, emerg. eff. April 30, 2001.

§2-1101. Renumbered as § 18-50 of this title by Laws 2001, c. 146, § 251, emerg. eff. April 30, 2001.

§2-1102. Renumbered as § 18-51 of this title by Laws 2001, c. 146, § 251, emerg. eff. April 30, 2001.

§2-1103. Renumbered as § 18-52 of this title by Laws 2001, c. 146, § 251, emerg. eff. April 30, 2001.

§2-1104. Renumbered as § 18-53 of this title by Laws 2001, c. 146, § 251, emerg. eff. April 30, 2001.

§2-1105. Renumbered as § 18-54 of this title by Laws 2001, c. 146, § 251, emerg. eff. April 30, 2001.

§2-1106. Renumbered as § 18-55 of this title by Laws 2001, c. 146, § 251, emerg. eff. April 30, 2001.

§2-1107. Renumbered as § 18-56 of this title by Laws 2001, c. 146, § 251, emerg. eff. April 30, 2001.

§2-1108. Renumbered as § 18-57 of this title by Laws 2001, c. 146, § 251, emerg. eff. April 30, 2001.

§2-1109. Renumbered as § 18-58 of this title by Laws 2001, c. 146, § 251, emerg. eff. April 30, 2001.

§2-1109.1. Renumbered as § 18-59 of this title by Laws 2001, c. 146, § 251, emerg. eff. April 30, 2001.

§2-1110. Renumbered as § 18-60 of this title by Laws 2001, c. 146, § 251, emerg. eff. April 30, 2001.

§21-1111. Rape defined.

A. Rape is an act of sexual intercourse involving vaginal or anal penetration accomplished with a male or female who is not the spouse of the perpetrator and who may be of the same or the opposite sex as the perpetrator under any of the following circumstances:

1. Where the victim is under sixteen (16) years of age; or
2. Where the victim is incapable through mental illness or any other unsoundness of mind, whether temporary or permanent, of giving legal consent; or
3. Where force or violence is used or threatened, accompanied by apparent power of execution to the victim or to another person; or

4. Where the victim is intoxicated by a narcotic or anesthetic agent, administered by or with the privity of the accused as a means of forcing the victim to submit; or

5. Where the victim is at the time unconscious of the nature of the act and this is known to the accused; or

6. Where the victim submits to sexual intercourse under the belief that the person committing the act is a spouse, and this belief is induced by artifice, pretense, or concealment practiced by the accused or by the accused in collusion with the spouse with intent to induce that belief. In all cases of collusion between the accused and the spouse to accomplish such act, both the spouse and the accused, upon conviction, shall be deemed guilty of rape; or

7. Where the victim is under the legal custody or supervision of a state agency, a federal agency, a county, a municipality or a political subdivision and engages in sexual intercourse with a state, federal, county, municipal or political subdivision employee or an employee of a contractor of the state, the federal government, a county, a municipality or a political subdivision that exercises authority over the victim.

B. Rape is an act of sexual intercourse accomplished with a male or female who is the spouse of the perpetrator if force or violence is used or threatened, accompanied by apparent power of execution to the victim or to another person.

R.L. 1910, § 2414. Amended by Laws 1981, c. 325, § 1; Laws 1983, c. 41, § 1, eff. Nov. 1, 1983; Laws 1984, c. 134, § 1, eff. Nov. 1, 1984; Laws 1990, c. 224, § 2, eff. Sept. 1, 1990; Laws 1993, c. 62, § 1, eff. Sept. 1, 1993; Laws 1995, c. 22, § 1, eff. Nov. 1, 1995; Laws 1999, c. 309, § 2, eff. Nov. 1, 1999; Laws 2001, c. 51, § 4, eff. July 1, 2001.

§2-1112. Renumbered as § 18-61 of this title by Laws 2001, c. 146, § 251, emerg. eff. April 30, 2001.

§2-1113. Renumbered as § 18-62 of this title by Laws 2001, c. 146, § 251, emerg. eff. April 30, 2001.

§2-1250. Repealed by Laws 1989, c. 258, § 1, eff. Dec. 31, 1990.

§2-1251. Repealed by Laws 1989, c. 258, § 1, eff. Dec. 31, 1990.

§2-1252. Repealed by Laws 1989, c. 258, § 1, eff. Dec. 31, 1990.

§2-1253. Repealed by Laws 1989, c. 258, § 1, eff. Dec. 31, 1990.

§2-1254. Repealed by Laws 1989, c. 258, § 1, eff. Dec. 31, 1990.

§2-1255. Repealed by Laws 1989, c. 258, § 1, eff. Dec. 31, 1990.

§2-1256. Repealed by Laws 1989, c. 258, § 1, eff. Dec. 31, 1990.

§2-1257. Repealed by Laws 1989, c. 258, § 1, eff. Dec. 31, 1990.

§2-1258. Repealed by Laws 1989, c. 258, § 1, eff. Dec. 31, 1990.

§2-1259. Repealed by Laws 1989, c. 258, § 1, eff. Dec. 31, 1990.

§2-1260. Repealed by Laws 1989, c. 258, § 1, eff. Dec. 31, 1990.

§2-1261. Repealed by Laws 1989, c. 258, § 1, eff. Dec. 31, 1990.

§2-1301-101. Renumbered as Section 16-1 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-102. Renumbered as Section 16-2 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-103. Renumbered as Section 16-3 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-104. Renumbered as Section 16-4 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-105. Renumbered as Section 16-5 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-105.1. Renumbered as Section 16-6 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-106. Renumbered as Section 16-7 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-107. Renumbered as Section 16-8 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-108. Renumbered as Section 16-9 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-109. Renumbered as Section 16-10 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-110. Renumbered as Section 16-11 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-111. Renumbered as Section 16-12 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-112. Renumbered as Section 16-13 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-201. Renumbered as Section 16-21 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-202. Renumbered as Section 16-22 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-203. Renumbered as Section 16-23 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-204. Renumbered as Section 16-24 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-205. Renumbered as Section 16-25 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-206. Renumbered as Section 16-26 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-207. Renumbered as Section 16-27 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-208. Renumbered as Section 16-28 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

NOTE: §2-1301-208, as amended by Laws 2001, c. 208, § 4, was repealed by Laws 2007, c. 195, § 10, emerg. eff. May 31, 2007.

§2-1301-209. Renumbered as Section 16-30 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-210. Renumbered as Section 16-31 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-211. Repealed by Laws 2001, c. 113, § 57, emerg. eff. April 18, 2001.

§2-1301-212. Renumbered as Section 16-32 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-213. Renumbered as Section 16-33 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-214. Renumbered as Section 16-34 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-215. Renumbered as Section 16-35 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-216. Renumbered as Section 16-36 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-217. Renumbered as Section 16-37 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-218. Renumbered as Section 16-38 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-219. Renumbered as Section 16-39 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-301. Renumbered as Section 16-51 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-302. Renumbered as Section 16-52 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-303. Renumbered as Section 16-53 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-304. Renumbered as Section 16-54 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-305. Renumbered as Section 16-55 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-306. Renumbered as Section 16-56 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-307. Renumbered as Section 16-57 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-308. Renumbered as Section 16-58 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-309. Renumbered as Section 16-59 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-310. Renumbered as Section 16-60 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-310.1. Renumbered as Section 16-61 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-310.2. Renumbered as Section 16-62 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-310.3. Renumbered as Section 16-63 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-310.4. Renumbered as Section 16-64 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-310.5. Renumbered as Section 16-65 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-310.6. Renumbered as Section 16-66 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-311. Renumbered as Section 16-67 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-312. Renumbered as Section 16-68 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-313. Renumbered as Section 16-68 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-314. Renumbered as Section 16-70 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-315. Renumbered as Section 16-71 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-316. Renumbered as Section 16-72 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-403. Repealed by Laws 2001, c. 113, § 57, emerg. eff. April 18, 2001.

§2-1301-501. Renumbered as Section 16-81 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1301-502. Renumbered as Section 16-82 of this title by Laws 2001, c. 113, § 56, emerg. eff. April 18, 2001.

§2-1451. Renumbered as § 8-80.1 of this title by Laws 2001, c. 146, § 252, emerg. eff. April 30, 2001.

§2-1452. Renumbered as § 8-80.2 of this title by Laws 2001, c. 146, § 252, emerg. eff. April 30, 2001.

§2-1453. Renumbered as § 8-80.3 of this title by Laws 2001, c. 146, § 252, emerg. eff. April 30, 2001.

§2-1453.1. Renumbered as § 8-80.4 of this title by Laws 2001, c. 146, § 252, emerg. eff. April 30, 2001.

§2-1454. Renumbered as § 8-80.5 of this title by Laws 2001, c. 146, § 252, emerg. eff. April 30, 2001.

§2-1455. Renumbered as § 8-80.6 of this title by Laws 2001, c. 146, § 252, emerg. eff. April 30, 2001.

§2-1456. Renumbered as § 8-80.7 of this title by Laws 2001, c. 146, § 252, emerg. eff. April 30, 2001.

§2-1457. Renumbered as § 8-80.8 of this title by Laws 2001, c. 146, § 252, emerg. eff. April 30, 2001.

§2-1458. Renumbered as § 8-80.9 of this title by Laws 2001, c. 146, § 252, emerg. eff. April 30, 2001.

§2-1459. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.

§2-1460. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.

§2-1501. Renumbered as § 18-180 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-1502. Renumbered as § 18-181 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-1503. Renumbered as § 18-182 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-1504. Renumbered as § 18-183 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-1505. Renumbered as § 18-184 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-1506. Renumbered as § 18-185 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-1507. Renumbered as § 18-186 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-1508. Renumbered as § 18-187 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-1508.1. Renumbered as § 18-188 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-1509. Renumbered as § 18-189 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-1510. Renumbered as § 18-190 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-1511. Renumbered as § 18-191 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-1512. Renumbered as § 18-192 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-1513. Renumbered as § 18-193 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-1514. Renumbered as § 18-194 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-1515. Renumbered as § 18-195 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-1516. Renumbered as § 18-196 of this title by Laws 2001, c. 146, § 253, emerg. eff. April 30, 2001.

§2-1551.1. Renumbered as § 18-120 of this title by Laws 2001, c. 146, § 257, emerg. eff. April 30, 2001.

§2-1601. Renumbered as § 6-303 of this title by Laws 2001, c. 146, § 254, emerg. eff. April 30, 2001.

§2-1602. Renumbered as § 6-304 of this title by Laws 2001, c. 146, § 254, emerg. eff. April 30, 2001.

§2-1603. Renumbered as § 5-1.1 of this title by Laws 2001, c. 146, § 254, emerg. eff. April 30, 2001.

§2-1604. Renumbered as § 18-10 of this title by Laws 2001, c. 146, § 254, emerg. eff. April 30, 2001.

§2-1701. Renumbered as § 8-85.1 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001.

§2-1702. Renumbered as § 8-85.2 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001.

§2-1703. Renumbered as § 8-85.3 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001.

§2-1704. Renumbered as § 8-85.4 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001.

§2-1705. Renumbered as § 8-85.5 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001.

§2-1706. Renumbered as § 8-85.6 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001.

§2-1707. Renumbered as § 8-85.7 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001.

§2-1708. Renumbered as § 8-85.8 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001.

§2-1709. Renumbered as § 8-85.9 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001.

§2-1710. Renumbered as § 8-85.10 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001.

§2-1711. Renumbered as § 8-85.11 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001.

§2-1712. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.

§2-1713. Renumbered as § 8-85.12 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001.

§2-1715. Renumbered as § 8-85.13 of this title by Laws 2001, c. 146, § 255, emerg. eff. April 30, 2001.

§2-1750. Renumbered as § 9-141 of this title by Laws 2001, c. 146, § 256, emerg. eff. April 30, 2001.

§2-1751. Renumbered as § 9-142 of this title by Laws 2001, c. 146, § 256, emerg. eff. April 30, 2001.

§2-1752. Renumbered as § 9-143 of this title by Laws 2001, c. 146, § 256, emerg. eff. April 30, 2001.

§2-1753. Renumbered as § 9-144 of this title by Laws 2001, c. 146, § 256, emerg. eff. April 30, 2001.

§2-1753.1. Renumbered as § 9-145 of this title by Laws 2001, c. 146, § 256, emerg. eff. April 30, 2001.

§2-1753.2. Renumbered as § 9-146 of this title by Laws 2001, c. 146, § 256, emerg. eff. April 30, 2001.

§2-1754. Renumbered as § 9-147 of this title by Laws 2001, c. 146, § 256, emerg. eff. April 30, 2001.

§2-1761. Renumbered as § 5-81 of this title by Laws 2001, c. 146, § 258, emerg. eff. April 30, 2001.

§2-1762. Renumbered as § 5-82 of this title by Laws 2001, c. 146, § 258, emerg. eff. April 30, 2001.

§2-1763. Renumbered as § 5-83 of this title by Laws 2001, c. 146, § 258, emerg. eff. April 30, 2001.

§2-1764. Renumbered as § 5-84 of this title by Laws 2001, c. 146, § 258, emerg. eff. April 30, 2001.

§2-1765. Renumbered as § 5-85 of this title by Laws 2001, c. 146, § 259, emerg. eff. April 30, 2001.

§2-1766. Renumbered as § 5-86 of this title by Laws 2001, c. 146, § 259, emerg. eff. April 30, 2001.

§2-1767. Renumbered as § 5-87 of this title by Laws 2001, c. 146, § 259, emerg. eff. April 30, 2001.

§2-1768. Renumbered as § 5-88 of this title by Laws 2001, c. 146, § 259, emerg. eff. April 30, 2001.

§2-1769. Renumbered as § 5-89 of this title by Laws 2001, c. 146, § 259, emerg. eff. April 30, 2001.

§2-1801. Repealed by Laws 1997, c. 7, § 2, emerg. eff. July 1, 1997.

§2-1802. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.

§2-1803. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.

§2-1804. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.

§2-1805. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.

§2-1806.1. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.

§2-1807. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.

§2-1808. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.

§2-1809. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.

§2-1810. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.

§2-1811. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.

§2-1812. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.

§2-1813. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.

§2-1814. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.

§2-1815. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.

§2-1816. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.

§2-1817. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.

§2-1818. Repealed by Laws 1997, c. 7, § 2, eff. July 1, 1997.

§2-1850.1. Renumbered as § 18-240 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001.

§2-1850.2. Renumbered as § 18-241 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001.

§2-1850.3. Renumbered as § 18-242 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001.

§2-1850.4. Renumbered as § 18-243 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001.

§2-1850.5. Renumbered as § 18-244 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001.

§2-1850.6. Renumbered as § 18-245 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001.

§2-1850.7. Renumbered as § 18-246 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001.

§2-1850.8. Renumbered as § 18-247 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001.

§2-1850.9. Renumbered as § 18-248 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001.

§2-1850.10. Renumbered as § 18-249 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001.

§2-1850.11. Renumbered as § 18-250 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001.

§2-1850.12. Renumbered as § 18-251 of this title by Laws 2001, c. 146, § 266, emerg. eff. April 30, 2001.

§2-1901. Renumbered as § 11-20 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.

§2-1902. Renumbered as § 11-21 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.

§2-1903. Renumbered as § 11-22 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.

§2-1904. Renumbered as § 11-23 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.

§2-1905. Renumbered as § 11-24 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.

§2-1906. Renumbered as § 11-25 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.

§2-1907. Renumbered as § 11-26 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.

§2-1908. Renumbered as § 11-27 of this title by Laws 2001, c. 146, § 260, emerg. eff. April 30, 2001.

§2-1950.1. Repealed by Laws 2005, c. 83, § 3, emerg. eff. April 19, 2005.

§2-1950.2. Repealed by Laws 2005, c. 83, § 3, emerg. eff. April 19, 2005.

§2-1950.10. Short title - Legislative findings.

A. This act shall be known and may be cited as the "Oklahoma Biofuels Development Act".

B. The Legislature finds that Oklahoma should encourage the processing, market development, promotion, distribution, and research of fuels derived from grain, ethanol or ethanol components, biodiesel, biobased lubricants, coproducts, or byproducts to provide for:

1. Expanded use of Oklahoma agricultural products;

2. Efficient and less-polluting energy sources and reserves which will make Oklahoma less energy dependent, reduce atmospheric carbon monoxide levels, and retain Oklahoma dollars in the Oklahoma economy to achieve a multiplier effect, thereby generating additional jobs and tax income to the state rather than exporting Oklahoma dollars;

3. Development of protein which will be more efficiently stored and marketed to foreign nations rather than the present method of simple export of unprocessed grain products;

4. Alternative local outlets for Oklahoma agricultural products which can be particularly utilized in times of depressed grain prices so as to give Oklahomans greater control of their crop marketing procedures rather than have crop marketing procedures too dependent upon federal agencies, major grain exporters, and foreign purchasers. Local outlets may include ethanol plants, oil seed processing plants, agricultural production facilities, or facilities related to the processing, marketing, or distribution of ethanol or products derived from ethanol or ethanol components, other biobased products, coproducts, or byproducts;

5. Cooperation with private industry to establish ethanol- and biobased-product-related production facilities in Oklahoma to create demand for agricultural products;

6. Promotion and market development, in cooperation with private industry, of ethanol or products derived from ethanol or ethanol components, biodiesel, coproducts, or byproducts; and

7. Sponsorship of research and development of industrial and commercial uses for agricultural ethanol and biobased oils and for byproducts resulting from the manufacturing of agricultural ethanol and biobased products in order to enhance economic feasibility and marketing potential of such products and processes.
Added by Laws 2005, c. 83, § 1, emerg. eff. April 19, 2005.

§2-1950.11. Repealed by Laws 2013, c. 118, § 25, eff. Nov. 1, 2013.

§2-2001. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.

§2-2002. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.

NOTE: Laws 2001, c. 146, § 273 repeals this section without reference to amendment by Laws 2001, c. 33, § 2, eff. July 1, 2001, which reads as follows:

§2-2002. Tuition waivers for farmers and ranchers.

From and after July 1, 1986, if funds become available and if considered economically feasible by the State Board of Career and Technology Education, any Oklahoma farmer and rancher who meets the criteria set forth in this act shall be entitled to accept tuition waivers and to attend any state-supported technology center school. Provided, that said tuition waivers, if offered, under this act shall be accepted by any approved applicant by July 1, 1996, and further, said tuition waivers, if offered, shall not exceed a period of more than thirty-six (36) months.

§2-2003. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.

NOTE: Laws 2001, c. 146, § 273 repeals this section without reference to amendment by Laws 2001, c. 33, § 3, eff. July 1, 2001, which reads as follows:

§2-2003. Qualifications for retraining.

In order for farmers and ranchers to qualify for retraining, they shall:

1. Have at least fifty percent (50%) of income from farming and ranching on or after January 1, 1983, and the applicant furnish appropriate federal and state tax returns to verify facts necessary to qualify for retraining; and
2. Have defaulted on any agriculture-related loan to any banking, savings and loan, or federal agency, on or after January 1, 1983; or
3. Have been the subject of a foreclosure on any item or property related to agriculture business by any institution similar to a bank or savings and loan, including but not limited to the Federal Land Bank; or any federal agency similar, but not limited to the Farmers Home Administration or the Federal Land Bank; or
4. Be an individual who could possibly save his farm or ranch from bankruptcy or foreclosure by learning a skill. The individuals who would qualify under this subsection will be recommended by the Advisory Committee on Agricultural Employment Retraining created in Section 2005 of this title; and
5. Satisfy the entrance and eligibility requirements imposed by the technology center school.

§2-2004. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.

§2-2005. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.

NOTE: Laws 2001, c. 146, § 273 repeals this section without reference to amendment by Laws 2001, c. 33, § 4, eff. July 1, 2001, which reads as follows:

§2-2005. Administration of program - Rules - Advisory committee.

A. The State Board of Career and Technology Education shall administer this program with present personnel and shall not hire any new employees to assist in administering this act.

B. The State Board of Career and Technology Education shall adopt rules pertaining to this act which shall take into consideration the special knowledge that farmers and ranchers already possess through practical experience and design courses that will expedite the learning of a skill and the opportunity for self-employment or job placement, and shall waive any tuition due from any approved applicant.

C. There is hereby created the Advisory Committee on Agricultural Employment Retraining to be composed of the following six (6) members who shall serve without per diem expenses or travel reimbursement on an advisory basis to the State Board of Career and Technology Education regarding this act as follows:

1. Two members shall be appointed by the Governor;

2. Two members shall be appointed by the Speaker of the House of Representatives; and

3. Two members shall be appointed by the President Pro Tempore of the Senate.

D. The Advisory Committee on Agricultural Employment Retraining will also recommend individuals for this program who have a financial hardship and could possibly save their farm or ranch from bankruptcy or foreclosure by learning a new skill. The Advisory Committee recommendations shall be forwarded to the State Board of Career and Technology Education for final consideration.

§2-2006. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.

NOTE: Laws 2001, c. 146, § 273 repeals this section without reference to amendment by Laws 2001, c. 33, § 5, eff. July 1, 2001, which reads as follows:

§2-2006. Quota system.

In the event that any institution is being seriously handicapped in its ability to provide an education or training for all of its students as a result of a disproportionate amount of tuition-waiver students under this act, then the administrative officer of such institution shall certify as to the handicapped condition to the State Board of Career and Technology Education who shall be permitted to establish a quota system for the institution. A schedule of guidelines and priorities shall be established for accepting students, as well as limiting the number of tuition-waiver students who may enroll. The excess number of applicants may enroll in some other technology center schools which has not reached a critical level of tuition-waiver students.

§2-2007. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.

§2-2011. Renumbered as § 11-35 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.

§2-2012. Renumbered as § 11-36 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.

§2-2013. Renumbered as § 11-37 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.

§2-2014. Renumbered as § 11-38 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.

§2-2015. Renumbered as § 11-39 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.

§2-2016. Renumbered as § 11-40 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.

§2-2017. Renumbered as § 11-41 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.

§2-2018. Renumbered as § 11-42 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.

§2-2021. Renumbered as § 11-80 of this title by Laws 2001, c. 146, § 261, emerg. eff. April 30, 2001.

§2-3001. Renumbered as § 5-91 of this title by Laws 2001, c. 146, § 262, emerg. eff. April 30, 2001.

§2-3002. Renumbered as § 5-92 of this title by Laws 2001, c. 146, § 262, emerg. eff. April 30, 2001.

§2-3003. Renumbered as § 5-93 of this title by Laws 2001, c. 146, § 262, emerg. eff. April 30, 2001.

§2-3004. Renumbered as § 5-94 of this title by Laws 2001, c. 146, § 262, emerg. eff. April 30, 2001.

§2-3010. Renumbered as § 5-100 of this title by Laws 2001, c. 146, § 263, emerg. eff. April 30, 2001.

§2-3011. Renumbered as § 5-101 of this title by Laws 2001, c. 146, § 263, emerg. eff. April 30, 2001.

§2-3012. Renumbered as § 5-102 of this title by Laws 2001, c. 146, § 263, emerg. eff. April 30, 2001.

§2-3021. Renumbered as § 5-111 of this title by Laws 2001, c. 146, § 264, emerg. eff. April 30, 2001.

§2-3022. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.

§2-3030. Repealed by Laws 2001, c. 146, § 273, emerg. eff. April 30, 2001.