

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

CHAPTER 30. CONSUMER PROTECTION

A summary of all rule changes can be found on the Notice of Rulemaking Intent for Chapter 30. Consumer Protection at the following link <http://app.ag.ok.gov/proposedrules/default.aspx>

SUBCHAPTER 13. IMPORTED FIRE ANT QUARANTINE

35:30-13-3. Regulated area

(a) Imported Fire Ant regulated areas are the Oklahoma counties of:

- (1) Bryan Jefferson, and McCurtain (1986);
- (2) Marshall (Additional Infested Area 1987);
- (3) Carter, Choctaw, Comanche, Johnston, and Love;
- (4) LeFlore, Pushmataha, Atoka, Coal, Pontotoc, Garvin, Murray, Stephens, Jefferson, Cotton, Tillman, and Jackson;
- (5) Latimer (2017);
- (6) Pittsburgh (2020);
- (7) Haskell (2024); and
- (8) Hughes, Kiowa, Pottawatomie, and Seminole (2025);
- (9) Sequoyah, McClain, Washita, and Cleveland (2026); and
- (10) Cherokee (2028).

(b) All states and counties external to non-quarantined counties within the State of Oklahoma, where IFA are found and/or known to be present.

SUBCHAPTER 17. COMBINED PESTICIDE

PART 1. COMMERCIAL, NON-COMMERCIAL, AND PRIVATE CATEGORIES OF PESTICIDE APPLICATION

35:30-17-1.2. Schedule of combined pesticide program fees

(a) The fees for issuance or renewal of pesticide business licenses shall be as follows:

- (1) Commercial license - One Hundred Dollars (\$100.00) per category, Five Hundred Dollars (\$500.00) maximum for each location.
- (2) Non-commercial license - Fifty Dollars (\$50.00) per category, Two Hundred Fifty Dollars (\$250.00) maximum for each location.
- (3) Duplicate issue - Ten Dollars (\$10.00) each.
- (4) Private applicator - Twenty Dollars (\$20.00) each.
- (5) For licenses that expire on September 30th of each year, failure to remit a commercial or non-commercial business license renewal fee by the 1st day of October shall result in a penalty of twice the amount of the license renewal fee, and after the 1st day of November shall also result in an additional One Hundred Dollar (\$100) penalty which shall be paid prior to license renewal.

- (6) For licenses that expire on December 31st of each year, failure to remit a commercial or non-commercial ~~applicator~~business license renewal fee by the 1st day of January shall result in a penalty of twice the amount of the license renewal fee, and after the 1st day of February shall also result in an additional One Hundred Dollar (\$100) penalty which shall be paid prior to license renewal.
- (b) The issuance and annual registration fees for each pesticide and device label shall be as follows:
- (1) Pesticide - Two Hundred Ten Dollars (\$210.00) each.
 - (2) Device - Two Hundred Ten Dollars (\$210.00) each.
 - (3) Failure to remit the registration fees for pesticides and devices by the 15th of the month following the month of expiration shall result in a penalty of twice the amount of the renewal fee.
- (c) The annual permit fee for a restricted use pesticide dealer shall be Fifty Dollars (\$50.00) for each location. Failure to remit the permit fee by the 15th of the month following the month of expiration shall result in a penalty of twice the amount of the renewal fee.
- (d) The fee for each written examination or practical conducted for the combined pesticide program shall be as follows:
- (1) Written examination - Fifty Dollars (\$50.00).
 - (2) Practical conducted - Fifty Dollars (\$50.00).
- (e) Applicator certification fees shall be as follows:
- (1) Re-certification procedure - Fifty Dollars (\$50.00) for each.
 - (2) Reciprocal certification procedure - One Hundred Dollars (\$100.00) for each.
- (f) Identification card fees shall be as follows:
- (1) Service technician - Twenty Dollars (\$20.00) each.
 - (2) Certified applicator - No charge.
 - (3) Duplicate issue or transfers - Ten Dollars (\$10.00) each.
- (g) The annual permit fee for pesticide producing facilities, including facilities that produce pesticidal devices, shall be One Hundred Dollars (\$100.00) for each location.
- (1) All permits for pesticide producer establishments shall be issued for a period of one year and shall be renewed annually.
 - (2) All permits shall expire on June 30 each year and may be renewed without penalty upon filing of a properly completed application not later than the fifteenth day of the month first following the date of expiration.
 - (3) If the application is not received by that date, a penalty of twice the amount of the renewal fee shall be charged for renewal of the permit.
- (h) All fees and monies collected under this program shall be paid to the Oklahoma Department of Agriculture, Food, and Forestry.

PART 6. PESTICIDAL PRODUCT PRODUCING ESTABLISHMENTS

35:30-17-13. Incorporation by reference of federal pesticide producing establishment regulations

- (a) The Registration of Pesticide and Active Ingredient Producing Establishments, Submission of Pesticide Reports and Books and Records of Pesticide Production and Distribution Regulations found in Title 40 of the Code of Federal Regulations (CFR) (~~2026~~2027 Revision), Part 167 et

seq. and Part 169 et seq. for the United States Environmental Protection Agency (EPA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of 40 CFR § 167.90.

(b) All words or terms defined or used in the Federal regulations incorporated by reference shall mean the state equivalent or counterpart to those words or terms.

PART 21. STANDARDS FOR DISPOSAL OF PESTICIDE AND PESTICIDE CONTAINERS

35:30-17-89.1. Incorporation by reference of federal pesticide management and disposal regulations

(a) The Labeling Requirements for Pesticides and Devices, Container Labeling and Pesticide Management and Disposal regulations found in Title 40 of the Code of Federal Regulations (CFR) (~~2026~~2027 Revision), Part 156.140 et seq. and Part 165 et seq. for the United States Environmental Protection Agency (EPA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety.

(b) All words or terms defined or used in the federal regulations incorporated by reference shall mean the state equivalent or counterpart to those words or terms.

SUBCHAPTER 24. OKLAHOMA INDUSTRIAL HEMP PROGRAM

35:30-24-2. Definitions

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

"Acceptable Hemp THC Level" means when a laboratory tests a sample, it shall report the total delta-9 tetrahydrocannabinol content concentration level on a dry-weight basis and the measurement of uncertainty. The acceptable hemp THC level, for the purpose of compliance with the requirements of the state hemp plan, is when the application of the measurement of uncertainty to the reported total delta-9 tetrahydrocannabinol content concentration level on a dry-weight basis produces a distribution or range that includes 0.3% or less.

"Active cultivation task" means any hands-on, intentional physical activity required to grow, maintain, and protect crops or plants.

"Building" means any single standing structure with walls and a roof but shall not include separate structures connected by corridors or breezeways. For purposes of fees, greenhouses, hoop houses or similar structures shall be considered a building.

"Cannabis" means the plant that, depending upon its THC concentration level, is further defined as either "hemp" or "marijuana". Cannabis is a genus of flowering plants in the family Cannabaceae of which Cannabis sativa is a species and Cannabis indica and Cannabis ruderalis are subspecies thereof. Cannabis refers to any form of the plant where the total delta-9 tetrahydrocannabinol concentration on a dry weight basis has not yet been determined. The term "Cannabis" is important in describing regulations that apply to plant production, sampling, or handling prior to determining the plant's THC content.

"Contiguous field" means any contiguous tract of land used for the cultivation of industrial hemp and may include contiguous tracts of land occasionally intersected by roads, streams, or

other natural features but shall not include a tract or tracts of land intersected by property owned by a third party or gaps in the cultivation of industrial hemp exceeding one quarter of a mile.

"Controlled Substances Act (CSA)" means the federal statutes, codified at 21 U.S.C. 801-971, establishing federal U.S. drug policy under which the manufacture, importation, exportation, possession, use, and distribution of certain substances is regulated. Because cannabis containing THC concentration levels of higher than 0.3 percent is deemed to be marijuana, a schedule I controlled substance, its regulation falls under the authorities of the CSA. The requirements of the CSA are relied upon for the disposal of cannabis that contains THC concentrations above 0.3 percent.

"Cultivation" means the act of planting, growing, or harvesting industrial hemp and any related agricultural activities.

"Cultivation site" means the contiguous field, building, storage area, or processing area in which one or more varieties of industrial hemp may be lawfully cultivated, stored, or processed.

"Decarboxylated" means the completion of the chemical reaction that converts THC-acid (THCA) into total delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums total delta-9-THC and eighty-seven and seven tenths (87.7) percent of THCA. This

term, commonly used in scientific references to laboratory procedures, is the precursor to the term "post-decarboxylation," a term used in the 2018 Farm Bill's mandate over cannabis testing methodologies to identify THC concentration levels.

"Delta-9 tetrahydrocannabinol", "Delta-9 THC" or "THC" means the primary psychoactive component of cannabis. Hemp production shall be verified as having THC concentration levels of 0.3 percent or less on a dry weight basis.

"Department" means the Oklahoma Department of Agriculture, Food, and Forestry, its employees, officers, and divisions.

"Growing area" means the portion of a contiguous field or building in which a single variety of industrial hemp is planted, grown, and harvested.

"Handling" means possessing or storing industrial hemp for any period of time on premises owned, operated, or controlled by a person licensed to cultivate or process industrial hemp. Handling includes possessing or storing industrial hemp in a vehicle for any period of time other than during its actual transport from the premises of a licensed person to cultivate or process industrial hemp to the premises of another licensed person.

"Industrial hemp" means the plant, *Cannabis sativa* L., and any part of the plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a total delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis.

"Key Participants" means a person or persons who have a direct or indirect financial interest in an entity producing hemp, such as an owner or a partner in a partnership. Executive level corporate employees, including chief executive officer, chief operating officer, and chief financial officer shall be considered Key Participants. Management level positions such as farm, field, and shift managers shall not be considered Key participants.

"License" means authorization by the Department for any person to grow and cultivate industrial hemp on a registered land area as part of the Oklahoma Industrial Hemp Program.

"Licensee" means a person who holds a valid Industrial Hemp License to grow industrial hemp under the Oklahoma Industrial Hemp Program. A licensee shall have the ability to remediate

noncompliant industrial hemp with a total delta-9 tetrahydrocannabinol concentration of not more than one percent (1.0%) on a dry-weight basis for retesting as set forth by the Department as long as the noncompliant industrial hemp has a total delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry-weight basis after retesting, and the option to remediate the industrial hemp through the reasonable destruction of the flower or plant that is above three-tenths of one percent (0.3%) on a dry-weight basis. All noncompliant hemp must be tracked and documented. The State Board of Agriculture shall have jurisdiction over such remediation, with includes, but is not limited to, destruction through composting, burning, or other regulated disposal methods if the industrial hemp is not remediated into a final product before processing below three-tenths of one percent (0.3%) on a dry-weight basis.

"Location" means the street address, legal land description, or precise geospatial location listed on the application or license.

"Postdecarboxylation" means testing methodologies for THC concentration levels in hemp, where the total potential total delta-9-tetrahydrocannabinol content, derived from the sum of the THC and THCA content, is determined and reported on a dry weight basis. The postdecarboxylation value of THC can be calculated by using a chromatograph technique using heat, known as gas chromatography, through which THCA is converted from its acid form to its neutral form, THC. The result of this test calculates total potential THC. The postdecarboxylation value of THC can also be calculated by using a high-performance liquid chromatograph technique, which keeps the THCA intact, and requires a conversion calculation of that THCA to calculate total potential THC.

"Processing" means converting industrial hemp into a marketable form, including the production of all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers.

"Processing area" means any physical location in which entire harvested plants are altered by any manner of mechanical, chemical, or other processing techniques. The processing area need not be located on or near the contiguous field or building in which industrial hemp is cultivated but shall be considered as part of the cultivation site.

"Produce" refers to the propagation of cannabis to produce hemp.

"Storage area" means any physical location in which harvested plants or plant parts are stored. The storage area need not be located on or near the contiguous field or building in which industrial hemp is cultivated but shall be considered as part of the cultivation site.

"Subcontractor" means a person or business entity that has contracted with an institutional licensee and provides supplies, labor, land, or expertise related to the institutional licensee's participation in the Oklahoma Industrial Hemp Program.

"USDA" means the United States Department of Agriculture.

35:30-24-3. Application

(a) Any person, eighteen (18) years of age or older, or business entity may participate in the Oklahoma Industrial Hemp Program by filing an application with the Department for a license:

- (1) Not less than thirty (30) days prior to the planting, cultivation, handling, or processing of any industrial hemp crop; or
- (2) No later than December 1 if a subsequent license is required to harvest industrial hemp crops planted before December 31 but scheduled for harvest after December 31.

(b) An applicant shall submit a separate application, pay separate application and inspection fees, and obtain a separate license for each cultivation site.

(c) The application shall be on a form provided by the Department and shall, at a minimum, contain the following information:

- (1) The name and address of the applicant;
- (2) EIN number, if the applicant is a business entity, along with names and email addresses of key participants;
- (3) The contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees responsible for oversight of the Oklahoma Industrial Hemp Program and communications with the Department relating to the cultivation of industrial hemp;
- (4) If the applicant intends to utilize subcontractors, the correct legal name of the subcontractors along with all aliases or trade names of the subcontractors;
- (5) If the applicant intends to utilize subcontractors, the address for the subcontractors' primary business locations and any satellite business offices located in Oklahoma;
- (6) If the applicant intends to utilize subcontractors, the contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees of the subcontractor responsible for oversight of the Oklahoma Industrial Hemp Program and communications with the Department relating to the cultivation of industrial hemp;
- (7) Proof of ownership for the cultivation site and the following information if the cultivation site is not wholly owned by the applicant:
 - (A) The name, address, and contact information for all persons or entities having any ownership interest in the cultivation site;
 - (B) An original signed, dated, and notarized letter of acknowledgement from each person having any ownership interest in the cultivation site indicating approval for the cultivation of industrial hemp at the cultivation site; and
 - (C) If applicable, a copy of the property lease for the entire duration of the license;
 - (D) Subleases shall not be accepted.
 - (E) A copy of the notarized deed on file with the relevant county shall be provided as proof of ownership.
 - (F) Contract for Deed or Purchase Agreements shall not be accepted for proof of ownership.
 - (G) Operating Agreement shall be provided with the application if the entity is applying as a business.
- (8) If the application identifies a contiguous field as the cultivation site:
 - (A) A legal description (Section, Township, Range) of the contiguous field;
 - (B) The global positioning location coordinates at the approximate center of the contiguous field; and
 - (C) An annotated map or aerial photograph with sufficient detail and clarity to define the boundaries and dimensions of the contiguous field in acres, and, if applicable, the locations, boundaries, and dimensions of different growing areas within the contiguous field along with a description of the variety of industrial hemp corresponding to each growing area;

- (9) If the application identifies a building as the cultivation site:
 - (A) The physical address of the building;
 - (B) The global positioning location coordinates of the building; and
 - (C) An annotated map or blueprint with sufficient detail and clarity to show the boundaries and dimensions of the building and growing area in square feet, and, if applicable, the locations, boundaries, and dimensions of different growing areas within the building along with a description of the variety of industrial hemp corresponding to each growing area;
 - (10) A description of any areas used to store or process plants or plant parts, including but not limited to:
 - (A) The physical address or location of any storage areas or processing areas;
 - (B) The global positioning location coordinates of any storage areas or processing areas; and
 - (C) An annotated map or blueprint with sufficient detail and clarity to show the location, boundaries and dimensions of any storage areas or processing areas in square feet;
 - (11) A schedule identifying the intended dates of planting and intended dates of harvesting any industrial hemp crop or crops;
 - (12) A statement of intended use and disposition for the industrial hemp harvested from the cultivation site or any plant parts thereof;
 - (13) A notarized and sworn statement from an official or employee of the applicant and from an official or employee of any associated subcontractor that only industrial hemp seed will be planted at the cultivation site; and
 - (14) Acknowledgement and agreement with the following terms and conditions:
 - (A) Any information provided by the applicant or subcontractors shall be subject to public disclosure under the Open Records Act;
 - (B) Any information provided by the applicant or subcontractors may be released by the Department to law enforcement agencies without notice to the applicant or its subcontractors;
 - (C) The applicant and subcontractors shall fully cooperate with the Department, grant the Department physical access to any part of the cultivation site and allow the Department to conduct inspection and sampling; and
 - (D) The applicant and subcontractors shall submit all required reports by the dates specified by the Department.
 - (15) Current criminal history reports for all key participants dated within sixty (60) days prior to the application submission date. A license application shall not be considered complete without all required criminal history reports.
- (d) The application for a processor/ handlers license shall be on a form provided by the Department and shall, at a minimum, contain the following information:
- (1) The name and address of the applicant;
 - (2) EIN number, if the applicant is a business entity, along with the names and email addresses of key participants; and
 - (3) The contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees responsible for oversight of the Oklahoma

Industrial Hemp Program and communications with the Department relating to the processing or handling of industrial hemp.

(4) Current criminal history reports for all key participants dated within sixty (60) days prior to the application submission date. A license application shall not be considered complete without all required criminal history reports.

(e) Each applicant and subcontractor shall fully cooperate with the Department, grant the Department physical access to any part of a cultivation site, and allow the Department to conduct inspection and sampling.

(f) Incomplete applications shall not be processed by the Department and any associated application fees shall be retained by the Department.

(g) Applications that are denied by the Department may be resubmitted within twelve (12) months of the original filing. The Department may waive application fees for resubmitted applications.

(h) Any person, eighteen (18) years of age or older, or business entity that intends to conduct research using industrial hemp shall submit a summary of the research that will be conducted with the application to the Oklahoma Department of Agriculture, Food, and Forestry for approval.

(i) Applicants who fail to provide requested information or documentation within thirty (30) days shall be denied.

35:30-24-4. Grounds for denial of application and revocation of a license

(a) The Department may consider ~~a number of the following factors when deciding to grant or deny or revoke a license including, but not limited to; the location of the cultivation site; the criminal history of the applicant, subcontractor, or employees thereof; and prior administrative actions taken by the Department against the applicant, subcontractors, or employees thereof.~~

(1) The location of the cultivation site;

(2) The criminal history of the applicant, subcontractor, or employees thereof;

(3) Prior administrative actions taken by the Department against the applicants, subcontractors, or employees thereof;

(4) Pesticide violations;

(5) A hemp crop that tests in excess of 5% for Total THC;

(6) If applicant's medical marijuana license has been suspended, revoked or surrendered during administrative action by the Oklahoma Bureau of Narcotics or Oklahoma Medical Marijuana Authority, an applicant shall be ineligible for participation in the Industrial Hemp Program.

(b) The Department's denial of a license may be contested in the manner provided by this subchapter.

35:30-24-5.1. Land use restrictions

(a) A licensee shall not grow, handle, process, or store industrial hemp in any structure that is used for residential purposes.

(b) A licensee shall not grow, handle, process, or store industrial hemp in any outdoor field or site that is located within one thousand (1,000) feet of a school, daycare, or similar public area frequented by children as determined by the Department.

(c) A licensee shall not conduct active cultivation tasks in shared common areas of buildings.

(d) Industrial hemp licensed properties shall not have an OBN or OMMA license at the same location.

(e) The Department may require properties previously licensed by OMMA, OBN, or ODAFF that have evidence of pesticide violations remediate land prior to approval of a license.

35:30-24-6.1. Transportation, importation, and exportation

(a) ———Upon the request of the Department or any authorized law enforcement officer, any person transporting industrial hemp shall produce the following documents for inspection:

- (1) Copy of current hemp grower's license;
- (2) Current approved certificate of analysis for the harvested hemp crop; and
- (3) Processor/Handlers license number, name, address, and contact information.

(b) Importation of live hemp plants requires a phytosanitary certificate with the following information:

- (1) Variety and number of clones of each variety being shipped.
- (2) Confirmation from inspector that certificate of analysis, performed by an approved laboratory and methodology, meets legal thresholds for total THC.

(c) Exportation of live hemp plants requires a phytosanitary certificate with the following information:

- (1) Variety and number of clones of each variety being shipped.
- (2) Confirmation from inspector that certificate of analysis, performed by an approved laboratory and methodology, meets legal thresholds for total THC.
- (3) Verification of receiver having an active hemp grower or processor license.

35:30-24-7. Fees

(a) Each new, subsequent, or renewed application for a license to cultivate industrial hemp at a particular cultivation site shall require the payment of a nonrefundable application fee at the rate of Five Hundred Dollars (\$500.00).

(b) Each new, subsequent, or renewed application for a license to cultivate industrial hemp at a particular cultivation site shall require the payment of a nonrefundable site inspection fee calculated at the rate of Five Dollars (\$5.00) per acre on a contiguous field or Thirty-Three Cents (\$0.33) per square foot in a building.

(c) Fiber growers shall only pay one application fee for all properties licensed with ODAFF. Fiber growers who license 2000 acres or more will be able to include the application fee as part of the \$5/acre fee.

(d) An hourly inspection rate consisting of Thirty-Five Dollars (\$35.00) per hour per inspector for actual time devoted to the inspection of a cultivation site shall be charged following routine or unannounced inspections. The calculation of the hourly inspection rate shall include the inspectors' travel time from the inspectors' duty station to the cultivation site, the time devoted to inspection of the cultivation site, and the inspectors' travel time returning from the cultivation to the inspectors' duty station.

(e) Application amendments or notifications of material change to the information provided in an application shall not require the payment of additional application fees but may, at the discretion of the Department, require additional inspections and the payment of additional site inspection fees and fees assessed at the hourly inspection rate at the same rate charged for a new application.

(f) Each new, subsequent, or renewed application for a license to process or handle industrial hemp shall require the payment of a nonrefundable application fee as follows:

- (1) One Thousand Dollars (\$1,000.00) for annual sales less than and including Fifty Thousand Dollars (\$50,000.00);
- (2) Two Thousand Five Hundred Dollars (\$2,500.00) for annual sales less than and including Two Hundred Fifty Thousand Dollars (\$250,000.00) but more than Fifty Thousand Dollars (\$50,000.00); and
- (3) Five Thousand Dollars (\$5,000.00) for annual sales greater than Two Hundred Fifty Thousand Dollars (\$250,000.00).

(g) Payments shall be made by a key participant listed on the application.

35:30-24-10. Records

(a) The licensee shall retain the following records for no less than three (3) years from the date the record is obtained or generated:

- (1) All records relating to information supplied in the application for a license;
- (2) All records relating to the use and disposition of industrial hemp harvested or any plant parts thereof;
- (3) All records relating to the storage or processing of industrial hemp or any plant parts thereof; and
- (4) All records relating to the destruction of industrial hemp harvested or any plant parts thereof, including but not limited to, any affidavits, notifications, and electronic records required by this subchapter.

(b) The processor/handler licensee shall retain the following records for three (3) years from the date the record is obtained or generated:

- (1) License number of the grower;
- (2) Copy of the Certificate of Analysis; and
- (3) Amount of hemp purchased from grower.

(c) The licensee shall produce or allow inspection of records at the request of the Department.

(d) The licensee's obligation to retain and produce records shall be satisfied if the subcontractor retains or produces records.

(e) Processors must keep records of hemp products produced and invoices of sales.

SUBCHAPTER 36. WEED FREE HAY, COMPOST, FORAGE, GRAVEL AND MULCH CERTIFICATION

35:30-36-1. Purpose

(a) These rules shall provide the standards for inspection and certification by the Oklahoma Department of Agriculture, Food, and Forestry of weed free hay, compost, forage, gravel and/or mulch.

(b) The weed free ~~hay~~ certification program is a voluntary program and is intended to reduce the exportation, importation, growth, and spread of noxious weeds.

35:30-36-2. Definitions

The following words or terms shall be defined as follows:

“Area(s) of manufacture” means the area where material or materials are stored prior to and/or during manufacturing, sale, and transport, including a buffer zone around the area.

“Area(s) of origin” means the area where material is stored, harvested, or produced prior to being transported.

“Bale” means a mechanically compressed package of forage or mulch bound by string or wire.

“Borrow/Fill Pit” means a location where soil or other natural deposits on or in the earth are removed from their location to make them suitable for use elsewhere and include, but not be limited to, surrounding ditches, topsoil piles, gravel/sand piles, fence/wind rows, roads, easement, right-of-ways, working areas, storage areas, and buffer zone surrounding the area.

“Certificate of inspection” means a certificate issued by a qualified inspector that states the results of a field or commodity inspection. This certificate shall document that the inspected field or commodity is free from state or regional noxious weeds or that the field or commodity contains noxious weeds.

“Certification” means the process the Department utilizes to conduct ~~field or hay~~ inspections to determine if the field, ~~product~~, or ~~hay~~ facility is free of noxious weeds.

“Certification marking” means twine, wire, tag, label, mark, or emblem affixed to eligible products as proof of certification.

“Compost” means a product that is manufactured through the controlled aerobic, biological decomposition of biodegradable materials. The product has undergone mesophilic and thermophilic temperatures, which significantly reduces the viability of pathogens and weed seeds (in accordance with EPA 40 CFR 503 standards) and stabilizes the carbon such that it is beneficial to plant growth.

“Cubed Hay” means hay formed into small compact self-binding units and shall not include pellets, as defined in this section. The field of origin for cubed hay shall be certified.

“Facility” means the physical site and operations where regulated products (like mulch, compost, or gravel) are produced, manufactured, and stored; this may include, but is not limited to, area(s) of origin and area(s) of manufacture.

“Field” means the land on which ~~a hay~~ forage is grown and is not divided by streams, public roads, other crops, or other barriers.

“Field certification inspection” means an onsite inspection of forage or mulch in the field, and areas adjacent to the field, for the presence of noxious weeds. The inspection shall be conducted prior to cutting or harvesting.

“Forage” means ~~alfalfa, grain, and grass hay, and combinations of alfalfa, grain, or grass hay~~ any crop, including alfalfa, grass, small grains, straw, and similar crops and commodities, that is grown, harvested, and sold for livestock, and sold for livestock forage, bedding material, or mulch related uses and the byproducts of those crops or commodities that have been processed into pellets, cubes, or related products.

“Gravel” mean small stones or pebbles, or a mixture of these with sand, stone, and gravel as well as recycled concrete and asphalt materials.

“Hay” means any agricultural forage crop product whether cultivated or not cultivated, irrigated or not irrigated, planted or naturally occurring, and may include ~~mulch~~ straw.

“Invasive plant” means any species prohibited by the Department, as well as any species included on the NAISMA Weed Free Prohibited Species List.

"Mulch" means ~~the straw remaining after grain is harvested~~ any material or mix of materials that consists of a combination of vegetation, and/or synthetic products that is manufactured as a whole, and intended to be used for temperature, moisture, and/or erosion control, weed suppression, or aesthetic purposes, and is applied solely as a surface treatment.

"Manure" means excrement, especially of animals, or other refuse used as fertilizer. Manipulated or unmanipulated (Raw) manure is not considered compost in itself as part of the NAISMA standards.

"NAISMA" means North American Invasive Species Management Association.

"Noxious weeds" means those weeds, including any weed seed or propagative plant parts, included on the regional NAISMA noxious weed list or designated by the State Board of Agriculture as noxious and are prohibited, and shall include those noxious weeds identified in Section 3-220 and Section 8-91 of Title 2 of the Oklahoma Statutes.

"Pellets" means agglomerated feed formed by compacting and forcing through die openings by a mechanical process. The field of origin shall be certified if heat is not used in the process.

"Product" means any agricultural crop or non-agricultural commodity capable of carrying invasive plants, including but not limited to forage, mulch, gravel, and compost.

"Propagative plant parts" means any parts of a plant capable of reproduction, including seeds, live roots, rhizomes, stolons or any other plant part.

"Qualified inspector" means a person qualified and trained to identify noxious weeds pursuant to standards promulgated by the Board or NAISMA Certified Training.

"Regional noxious weed free" means ~~hay products~~ inspected for, and determined to be free of weeds designated as noxious on NAISMA's Regional list or by states participating in the regional noxious weed free forage and mulch certification program, ~~including but not limited to the following: Colorado, Idaho, Kansas, Montana, Oregon, Utah, Washington, and Wyoming.~~

"Responsible Party" means the individual or the representative of the entity that controls, directs, or manages the operation of the site.

"State noxious weed free" means hay inspected for weeds designated as noxious and certified as free of noxious weeds, seed, and propagative plant parts.

"Treated" means utilizing treatment methods to prevent weed seed formation, including, but not limited to burning, mechanical methods, rouging, or application of chemical herbicides.

"Weed free" means ~~any hay~~ certified as free of noxious weeds by State Statute, Rule, and NAISMA standards.

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

35:30-36-3. Voluntary weed free ~~hay~~ certification

(a) The Oklahoma Department of Agriculture, Food, and Forestry is the certifying authority for weed free ~~hay~~ certifications.

(b) The Department shall complete the following for the weed free hay certification program:

- (1) Coordinate ~~hay~~ inspections within the state for compost, forage, gravel, and mulch.
- (2) Select, train, and supervise persons who serve as qualified inspectors.
- (3) Issue certificates of inspection, certification markings, and/or bale tags to for qualifying ~~applicants~~ products.

- (4) Maintain a record of all inspections performed, and certificates of inspection, certification markings, and bale tags issued.
- (c) The Department may issue a certificate of inspection for each field and crop cutting inspected and found to be free of noxious weeds product that meets the NAISMA Minimum Standards for Certified Weed-Free, whether it be compost, forage, gravel, or mulch.
- (1) The certificate shall document that the hay product is weed free and shall contain the applicant's name, address, commodity, and estimated yield.
- (2) A copy of the certificate shall be retained by the Department.
- (d) The applicant may use tags provided by the Department or purple and yellow twine as approved by NAISMA to identify the hay bales harvested from the certified field. Forage:
- (1) The applicant may use tags provided by the Department or purple and yellow twine as approved by NAISMA to identify the hay bales harvested from the certified field.
- (2) Any excess tags shall be returned to the Department no later than December 31 of the calendar year issued and the price shall be nonrefundable.
- (3) All certified weed free forage shipments shall be accompanied by a certification marking and a state phytosanitary certificate, if required, and tag as evidence that the forage is certified to be weed free and traceable to the source of the original forage which has been issued a certificate of inspection.
- (e) Any excess tags shall be returned to the Department no later than December 31 of the calendar year issued and the price shall be nonrefundable Compost: all certified weed free compost shipments shall be accompanied by a certification marking that the compost is certified to be weed free and traceable to the area(s) of manufacture which has been issued a certificate of inspection.
- (f) All certified weed free hay shipments shall be accompanied by a certificate of inspection and a state phytosanitary certificate, if required, and tag as evidence that the hay is certified to be weed free and traceable to the source of the original hay Gravel: all certified weed free gravel shipments shall be accompanied by a certification marking that the gravel/borrow pit is certified to be weed free and has been issued a certificate of inspection.
- (g) Mulch: all certified weed free mulch shipments shall be accompanied by a certification marking that the mulch is sourced from a certified weed free area of manufacture and/or area of origin and has been issued a certificate of inspection.

35:30-36-5. Field certification inspection

- (a) Hay shall be inspected in the field of origin prior to the beginning of harvest for each field and cutting. For forage and hay:
- (1) Fields shall be inspected within a maximum of 10 days prior to cutting / harvesting.
- (2) Fields must be inspected again if circumstances prevent harvest of the forage for a period greater than 10 days from the first inspection.
- (3) There shall be a minimum of two entry points per field.
- (4) There shall be a minimum of one entry point per each 10 acres (4 hectares).
- (5) Each point of entry shall be at least 150 feet (45 meters) into the field, and each additional 150 feet (45 meters) traveled shall constitute an entry point.
- (6) Travel shall be uninterrupted, proceeding through the field being inspected.

- (7) Field borders shall be inspected, including surrounding ditches, fence rows, roads, easements, rights-of-way, and/or a buffer zone surrounding the field as determined by the designated authority.
- (8) The storage area for the forage shall also be inspected and meet these standards.
- (9) The responsible party will control all noxious weed species, identified by State Statute, Rule, and NAISMA standards, within the entire area of the requested inspection.
- (10) An inspector may not inspect fields of which said inspector has ownership or financial interest.
- ~~(b) Each field inspected shall be identified by the name of the applicant and a field name or number. The field certification inspection may be performed on an entire field or a portion of a field, if the portion of the field is plainly marked and identified by the applicant prior to inspection.~~ For mulch:
- (1) Mulch shall be inspected in the area of manufacture by the designated authority.
- (2) Mulch shall be inspected in the area of origin by the designated authority.
- (A) Area upon which the mulch material or component parts were collected, produced, manufactured, or stored was treated to prevent seed formation or seed ripening to the degree that there is reduced risk of dissemination of the seed, or any injurious portion from such species, or the propagating parts of the plant are not capable of producing a new plant.
- (B) Weeds were treated according to best management practices, prior to development or distribution of propagative parts.
- (C) If an inspection in the area of origin is not practical or the area of origin cannot be certified under the above methods, approved mitigation during the manufacturing process must take place.
- (3) Mulch which could not be inspected at the place of origin may be certified if the following requirements are met. The producer shall provide proper documentation of the site processes:
- (A) The mulch shall be a minimum of 90% greater than 2mm in particle size in order not to support plant growth, or if more than 10% of the mulch is less than 2mm in particle size then:
- (B) The temperature of the mulch pile is maintained at 55°C (131°F) or higher for 15 days, during which the pile is turned a minimum of two (2) times.
- (4) The area around all equipment and working areas will be inspected to meet the minimum standards. This includes all stockpiles, driving areas, and parking areas.
- (5) All storage, manufacturing, aging, packaging, and inventory areas will be inspected to meet the minimum standards.
- (6) All areas of origin shall be inspected as needed to ensure that there are no propagative parts of prohibited weeds on the site, with a minimum of one inspection during each growing season.
- (7) All areas of manufacture shall be inspected to ensure manufacturing processes meet the NAISMA minimum standards, with a minimum of one inspection during the growing season.
- (8) The inspector will follow all safety protocols as set forward by the party responsible while on the site.

- (9) The responsible party will control all noxious weed species, identified by State Statute, Rule, and NAISMA standards, within the entire area of the property.
- (10) An inspector may not inspect an area of origin or an area of manufacture in which said inspector has ownership or financial interest.
- (11) All of the above listed inspection procedures will be applied to the area of manufacture and/or the area of origin as they are defined.
- ~~(c) Field inspections shall take place prior to any farming practice that limits the qualified inspector's ability to properly inspect and certify the field. For compost:~~
- (1) Area of Manufacture must be inspected by a designated authority a minimum of one time per calendar year.
- (2) The area around all equipment and working areas will be visually and physically inspected to meet the minimum standards. This includes all stockpiles, driving areas, and parking areas.
- (3) All storage, manufacturing, aging, packaging, and inventory areas will be inspected to meet the minimum standards.
- (4) All areas of manufacture shall be inspected to ensure manufacturing processes meet the NAISMA minimum standards, with a minimum of one inspection during the growing season.
- (5) The inspector will follow all safety protocols as set forward by the responsible party while on the site.
- (6) The responsible party will control all species, as listed in identified by State Statute, Rule, and NAISMA standards, within the entire area of the property.
- (7) A designated authority or an inspector may not inspect an area of origin or an area of manufacture in which said designated authority or inspector has ownership or financial interest.
- (8) All of the above listed inspection procedures will be applied to the area of manufacture as they are defined.
- ~~(d) A field shall be inspected a second time if the hay is not harvested within ten (10) days of the first inspection. For gravel:~~
- (1) Material shall be inspected in the area of origin by designated authority.
- (2) Material shall be inspected prior to movement by designated authority.
- (3) Gravel/borrow area which contains any species outlined in identified by State Statute, Rule, and NAISMA standards, may be certified if the following requirements are met:
- (A) Area upon which the gravel/borrow material was mined was treated to prevent seed formation or seed ripening to the degree that there is reduced risk of dissemination of the seed, or any injurious portion from such species, or the propagating parts of the plant are not capable of producing a new plant.
- (B) Weeds were treated according to best management practices, prior to development, or distribution of propagative parts.
- (4) When opening a new gravel pit or expanding an existing gravel pit with weeds present, topsoil and material should be removed and stockpiled appropriately. Do not move infested material off property or place in vehicle traffic areas.
- (5) The entire border shall be walked or driven.
- (6) All storage areas, gravel/sand piles shall also be inspected and meet the standards.

(7) Area around all equipment, crushers, and working areas must be inspected to meet the standards.

(8) Areas shall be inspected annually with a minimum of one inspection in the growing season.

(9) An inspector will follow all safety protocols set forth by the owner/operator while on site.

(10) An inspector may not inspect a material site of which said inspector has ownership or financial interest.

(11) Responsible party will control prohibited weeds, as listed in State Statute, Rule, and NAISMA standards, within the entire area of property, this includes stockpiles regardless of origin, parking area and driving area.

~~(c) When performing field certification inspections, the qualified inspector shall inspect the following: For all inspections, the qualified inspector shall complete an inspection report identifying the weeds present and their locations in the field and/or facility.~~

~~(1) The entire field and the entire field border;~~

~~(2) Any ditches, fence rows, roads, easements, rights-of-way, and buffer zones, as applicable, surrounding the field; and~~

~~(3) A minimum of two (2) entry points per field and a minimum of one (1) entry point per each ten (10) acres, and at each entry point the qualified inspector shall walk at least one hundred and fifty (150) feet into the field.~~

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

~~(g) If noxious weeds are found that could result in hay contamination, the field shall not be certified weed free. The qualified inspector shall complete an inspection report identifying the weeds present and their locations in the field.~~

35:30-36-7. Treated facility and field certification inspections

(a) Facilities and F~~fields~~ containing any noxious weeds may be certified in the following circumstances:

(1) The facility or field upon which the hay is produced is treated to prevent seed formation or seed ripening to the degree that there is no danger of dissemination of the seed, or any injurious portion from noxious weeds, or undesirable plant species, or the propagating parts of the plant are not capable of producing a new plant.

(2) Noxious weeds were treated not later than rosette to bud stage, or boot stage for grass species classified as weeds, prior to harvesting or cutting.

(3) Treatment can include but is not limited to:

(A) Burning;

(B) Mowing, cutting or rouging;

(C) Mechanical methods; or

(D) Chemicals.

(b) The applicant may treat the noxious weeds and request a follow up inspection at additional cost to the applicant. If upon re-inspection, the qualified inspector determines that the weeds were treated in a manner that will prevent seeds or propagative plant parts from contaminating the hayproduct, the field, facility, or product ~~can~~may be certified.

35:30-36-10. Voluntary posting

(a) After certification, an applicant may post signs or other forms of notification indicating that ~~the hay~~ product is certified as weed free. Each sign or notification shall include the weed free certification number.

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

35:30-36-11. Qualified inspector qualifications

(a) The Department shall appoint, as needed, qualified inspectors throughout the state who may conduct inspections and issue certificates of inspection.

(b) Only qualified inspectors shall certify ~~hay~~ facilities, fields, and/or products as weed free.

(c) The principal purpose of the qualified inspector is to establish, conduct, and maintain a uniform and reasonable system of inspection and certification of ~~hay to determine if the hay is~~ weed free facilities, fields, and/or products.

(d) Each person designated as a qualified inspector shall participate in a training session presented by NAISMA to recognize noxious weeds and learn standardized inspection, certification, and recordkeeping procedures.

(e) The Department shall determine minimum training and accreditation standards for qualified inspectors. Qualified inspectors shall obtain continuing education as required by the Department.

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

35:30-36-12. Violations

It shall be a violation of these rules to:

(1) Make false, misleading, deceptive, or fraudulent representations regarding certification of any ~~hay~~ facility, field, or product;

(2) Refuse or fail to comply with any provision of these rules;

(3) Fail to maintain or submit documents required by these rules;

(4) Fail to return unused tags to the Department by December 31 of the calendar year issued;

(5) Alter or deface in any manner any document or marking system produced as the result of a weed free hay inspection; and

(6) Reproduce, produce a facsimile of, or utilize in any fashion any documentation or marking system pertaining to weed free certification of any crop.

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

(a) The Department may certify ~~hay~~ facility, field and/or product as noxious weed free using NAISMA Weed List as minimum certification standards.

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

SUBCHAPTER 37. NURSERY STOCK SALES

35:30-37-6. Shipping, transportation, and inspection of plants ~~stocks, plant products, and other material and inspection fees~~

(a) Authorized agents shall have the authority to inspect any plant or plant product for the purpose of export. Plant products shall be inspected for insect pests and plant diseases and identified treatments may be required to meet export requirements. ~~For phytosanitary inspection and certificate the exporter shall pay a fee determined by the Board and consistent with the USDA-APHIS Appendix 1 Fees and Costs.~~

(b) A phytosanitary certificate may be required for plant stock to be exported from the State of Oklahoma and into another state or country. For phytosanitary inspection and certificate, the exporter shall pay a fee determined by the Board and consistent with the USDA-APHIS Appendix 1 Fees and Costs.

~~(b)(c)~~ (c) A person may request inspection of plants and other material by the Board prior to movement or sale. The Board may assess fees to cover the cost associated with those inspections. Funds generated from the fees shall be deposited in a non-lapsing account and used to conduct the inspections.

(d) Any person, nurseryman, stock dealer, agent, or plant broker doing business outside the State of Oklahoma who desires to ship into this State, nursery stock, other plants, and plant products from any state, U.S. possession, territory, or district of the United States, shall comply with the following regulations:

(1) If shipping nursery stock, the nurseryman, stock dealer, agent, or plant broker must be registered with the department of agriculture or the licensing regulatory agency of the state where such nursery stock originated and listed in that state's directory of registered or certified nurseries, agents, stock dealers, and plant brokers.

(2) For nursery stock, a valid certificate of inspection issued by the state of origin must be attached to and readily visible on each separate package, bundle, box, or shipment of nursery stock shipped into Oklahoma. The certificate of inspection shall certify that the nursery stock is apparently free of plant pests and is in compliance with the rules of the department.

(3) All commercial shipments of nursery stock or other plants and plant products entering Oklahoma shall be accompanied with a bill of lading or other documentation which contains the following information:

(a) Name and address of shipper or consignor;

(b) Name and physical address of receiver or consignee;

(c) Description of plants or plant products in shipment;

(d) Place and state of origin;

(e) Ultimate destination of shipment if different than receiver or consignee.

(4) All nursery growers, nursery dealers, and nursery landscapers must maintain records showing the source and date of purchase of all nursery stock, other plants, and plant products, received during the past twelve months. Such records must be made available to the Board during normal business hours.

35:30-37-10. Prohibited sales of aquatic plants

A person shall not knowingly propagate, sell, or offer for sale any aquatic plant pest. "Aquatic plant pest" shall include, but not be limited to, any aquatic plant species listed as a noxious aquatic plant in OAC 800:20-3-2 (a) and the following:

(1) Azolla pinnata - Mosquito Fern (aka - Water Velvet, Water Fern)

- (2) *Caulerpa taxifolia* - Caulerpa (aka - Mediterranean Clone of Caulerpa)
- (3) *Eichhornia azure* - Anchored Water Hyacinth (aka - Rooted Water Hyacinth, Blue Water Hyacinth, Saw-petal Water Hyacinth)
- (4) *Hydrilla verticillata* - Hydrilla (aka - Florida Elodea, Star Vine, Oxygen Plant, Oxygen Weed)
- (5) *Hygrophila polysperma* - Hygro (aka - Miramar Weed, Green Hygro, Oriental Ludwigia, East Indian Hygrophila)
- (6) *Ipomoea aquatica* - Water Spinach (aka - Swamp Morning Glory, Chinese Water Spinach, Water Bindweed, Aquatic Morning Glory)
- (7) *Lagarosiphon major* - African Elodea (aka - Oxygen Weed)
- (8) *Limnophila* species - Ambulia (aka - Asian Marshweed, Limno, Red Ambulia, Indian Ambulia)
- (9) *Lythrum salicaria* - Purple Loosestrife (aka - Loosestrife)
- (10) *Marsilea quadrifolia* - Marsilea (aka - European Waterclover, Four-leaf Clover Fern, Water Fern, Water Clover, Hairy Pepperwort)
- (11) *Marsilea mutica* - Australian Waterclover (aka - Varigated Water-clover, Nardoo)
- (12) *Marsilea minuta* - Waterclover
- (12) *Melaleuca quinquenervia* - Paperbark Tree (aka - Melaleuca, Cajeput, Punk)
- (13) *Monochoria hastata* - Cat's Claw (aka - Monochoria)
- (14) *Ottellia alismoides* - Duck Lettuce
- (15) *Sagittaria sagittifolia* - Japanese Arrowhead (aka - Hawaiian Arrowhead, Common Arrowhead, Chinese Arrowhead)
- (16) *Salvinia* spp. - all giant and common salvinia species - (aka - Salvinia, Butterfly Fern, Water Fern, Water Moss, Water Velvet, Karibaweed, Koi Kandy, Water Spangles, Floating Fern, South American Pond Fern)
- (17) *Alternanthera* spp. - Alligatorweed and congeneric species (aka - Alligator-weed, Chaff Flower, lilacina, roseafolia)
- (18) *Solanum tampicense* - Wetland Nightshade
- (19) *Sparganium erectum* - Exotic Bur-reed
- (20) *Glossostigma diandrum* - Mud Mat
- (21) *Marsilea minuta* - Waterclover