

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

SUBCHAPTER 13. IMPORTED FIRE ANT QUARANTINE

35:30-13-3. Regulated area

Imported Fire Ant regulated areas are the Oklahoma counties of:

- (1) Bryan Jefferson, and McCurtain (1-15-86);
- (2) Marshall (Additional Infested Area 2-5-87);
- (3) Carter, Choctaw, Comanche, Johnston, and Love; and
- (4) LeFlore, Pushmataha, Atoka, Coal, Pontotoc, Garvin, Murray, Stephens, Jefferson, Cotton, Tillman, and Jackson.
- (5) Latimer (6-9-17)

SUBCHAPTER 17. COMBINED PESTICIDE

**PART 1. COMMERCIAL AND NON-COMMERCIAL CATEGORIES OF PESTICIDE
APPLICATION**

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

- (a) The fees for issuance or renewal of pesticide applicators licenses shall be as follows:
 - (1) Commercial applicator - One Hundred Dollars (\$100.00) per category, Five Hundred Dollars (\$500.00) maximum for each location.
 - (2) Non-commercial applicator - Fifty Dollars (\$50.00) per category, Two Hundred Fifty Dollars (\$250.00) maximum for each location.
 - ~~(3) Government agencies or their employees - No charge for commercial or non-commercial applicator.~~
 - ~~(4)~~(3) Duplicate issue - Ten Dollars (\$10.00) each.
 - ~~(5)~~(4) Private applicator - Twenty Dollars (\$20.00) each.
 - ~~(6)~~(5) Failure to remit a commercial or non-commercial applicator license renewal fee by the 1st day of January shall result in a penalty of twice the amount of the license renewal fee, and after the 1st day of February shall also result in ~~a new examination being required~~ 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 - ~~One Hundred Sixty~~ Two Hundred Ten Dollars ~~(\$160.00)~~ (\$210.00) each.
 - (2) Device - ~~One Hundred Sixty~~ Two Hundred Ten Dollars ~~(\$160.00)~~ (\$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 annual permit fee for a non restricted use pesticide dealer shall be:~~

- ~~(1) Annual pesticide or device sales greater than \$5,000.00 - Fifty Dollars (\$50.00) for each location.~~
- ~~(2) Annual pesticide or device sales \$5,000.00 or less - Twenty Five Dollars (\$25.00) for each location.~~
- ~~(3) 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.~~

~~(e)~~(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).
- ~~(3) Government agencies or their employees - No charge.~~

~~(f)~~(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.
- ~~(3) Government agencies or their employees - No charge.~~

~~(g)~~(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.

~~(h)~~(g) The annual permit fee for pesticide producing facilities, including facilities that produce pesticidal devices, shall be One Hundred Dollars (\$100.00) for each location.

- (1) All permits for pesticide producer establishments shall be issued for a period of one (1) year and shall be renewed annually.
- (2) All permits shall expire on June 30 each year and may be renewed without penalty upon filing of a properly completed application not later than the fifteenth day of the month first following the date of expiration.
- (3) If the application is not received by that date, a penalty of twice the amount of the renewal fee shall be charged for renewal of the permit.

~~(i)~~(h) All fees and monies collected under this program shall be paid to the Oklahoma Department of Agriculture, Food, and Forestry.

PART 3. CERTIFICATION, CONDUCT OF EXAMINATIONS, AND RECERTIFICATION

35:30-17-6. Recertification

- (a) Each certified applicator shall seek recertification every five (5) years.
- (b) A certified applicator shall either pass a written examination or earn a specified number of Continuing Education Units (CEU) approved by the Department to successfully complete recertification. Approximately one (1) hour of education shall be the equivalent of one (1) CEU. The CEU requirements for each category are as follows:
 - (1) 1a - Agricultural Plant:
 - (A) Total in five years - 20 CEU
 - (B) Maximum in any one year - 10 CEU
 - (2) 1b - Agricultural Animal:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in any one year - 2 CEU

- (3) 2 - Forest:
 - (A) Total in five years - 10 CEU
 - (B) Maximum in any one year - 5 CEU
- (4) 3a - Ornamental and Turf Outdoor:
 - (A) Total in five years - 20 CEU
 - (B) Maximum in any one year - 10 CEU
- (5) 3b - Interiorscape:
 - (A) Total in five years - 10 CEU
 - (B) Maximum in any one year - 5 CEU
- (6) 3c - Nursery/Greenhouse:
 - (A) Total in five years - 15 CEU
 - (B) Maximum in any one year - 7 CEU
- (7) 4 - Seed Treatment:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in any one year 2 CEU
- (8) 5 - Aquatic:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in any one year 2 CEU
- (9) 6 - Right-of-Way:
 - (A) Total in five years - 15 CEU
 - (B) Maximum in any one year 7 CEU
- (10) 7a - General Pest:
 - (A) Total in five years - 20 CEU
 - (B) Maximum in one year - 10 CEU
- (11) 7b - Structural Pest:
 - (A) Total in five years - 20 CEU
 - (B) Maximum in one year - 10 CEU
- (12) 7c - Fumigation:
 - (A) Total in five years - 10 CEU
 - (B) Maximum in one year - 5 CEU
- (13) 7d - Food Processing:
 - (A) Total in five years - 15 CEU
 - (B) Maximum in one year - 7 CEU
- (14) 8 - Public Health:
 - (A) Total in five years - 15 CEU
 - (B) Maximum in one year - 7 CEU
- (15) 9 - Regulatory:
 - (A) Total in five years - 10 CEU
 - (B) Maximum in one year - 5 CEU
- (16) 10 - Demonstration & Research in app. Category:
 - (A) Total in five years - 20 CEU
 - (B) Maximum in one year - 10 CEU
- (17) 11a - Bird & Vertebrate Animal Pest:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in one year - 2 CEU
- (18) 11b - Predatory Animal

- (A) Total in five years - 5 CEU
- (B) Maximum in one year - 2 CEU
- (19) 12 - Timber Treating (all subcategories):
 - (A) Total in five years - 5 CEU
 - (B) Maximum in one year - 2 CEU
- (20) 13 - Antimicrobial:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in any one year - 2 CEU
- (21) 14 - Specialty Category:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in any one year - 2 CEU
- (22) 15 - Aerial:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in any one year - 2 CEU
- (c) No more than one-half (1/2) of the total credit units shall be accepted for any one (1) calendar year.
 - (1) Credit units shall be obtained in at least three (3) of the five (5) years, in any combination, so that the total number obtained equals or exceeds the five (5) year requirement.
 - (2) The continuing education units may be prorated for any applicator whose recertification period is less than five (5) years.
 - (3) The Department may allow a CEU to be credited to more than one (1) category.
- (d) The CEU shall be structured to provide the following information over the five (5) year period:
 - (1) Laws and rules;
 - (2) Pesticides (formulations, registration, labeling and label comprehension, handling and storage, toxicity, and hazards);
 - (3) Application equipment and calibration;
 - (4) Pests and IPM;
 - (5) Identification of hazardous areas;
 - (6) Drift prevention;
 - (7) Endangered species;
 - (8) Groundwater; and
 - (9) Worker protection.
- (e) Any person may request approval of an education program as CEU.
 - (1) The request for approval shall include the following:
 - (A) A list of proposed topics including a description of the content and their relative value for meeting the standards of continuing certification;
 - (B) A list of speakers and their qualifications; and
 - (C) Method used to verify attendance and evaluate the progress of participants.
 - (2) The Department and the Oklahoma State University Pesticide Coordinator shall review the request for approval to determine if it meets the criteria of CEU.
 - (A) If the education program is approved for CEU, the person requesting approval shall be notified of the number of assigned CEU.
 - (B) Awarded CEUs shall not be valid for more than five (5) years after the date of approval. After five (5) years, courses shall be resubmitted for review and approval.

- (C) The person requesting approval may appeal the number of assigned CEU to a three-person review committee with a representative from each of the following:
- (i) Oklahoma State University;
 - (ii) the Department; and
 - (iii) certified applicators.

(3) Individuals seeking course approval for CEU's shall electronically submit course information and other required information for CEU approval through a website.

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) (~~2016~~ 2017 Revision), Part 167 et seq. and Part 169 et seq. for the United States Environmental Protection Agency (EPA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of 40 CFR § 167.90.

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

PART 9. MINIMUM STANDARDS FOR CONTRACTS AND KEEPING OF RECORDS

35:30-17-21. Records required for pesticide applications and restricted use pesticide sales

(a) Commercial and non-commercial applicators shall keep an accurate record pertaining to pesticide activities, which, at a minimum show:

- (1) Start and stop time of application.
- (2) Total amount of pesticide used.
- (3) Name and address of the commercial or non-commercial company.
- (4) Name and address of person for whom applied.
- (5) Legal description of the land where applied. The legal description may be a street address if properly marked, but shall not be a Post Office Box address.
- (6) Date of application.
- (7) Application rate.
- (8) Dilution rate for mixing.
- (9) Total quantity tank mix used.
- (10) Complete trade name of pesticide product used.
- (11) EPA registration number of pesticide product used.
- (12) Name of adjuvants used when the label requires specific adjuvants.
- (13) Name of drifting agents used when the label requires specific drifting agents.
- ~~(12)~~(14) Target pest for the application.
- ~~(13)~~(15) Site where the pesticide was applied.
- ~~(14)~~(16) Restricted Entry Interval as stated on the product label.
- ~~(15)~~(17) A copy of the pesticide product label or labeling that is attached to the container or included in the shipping case.
- ~~(16)~~(18) Copies of any contracts issued.

- ~~(17)~~(19) Copies of any wood infestation reports issued.
- ~~(18)~~(20) Other information as required by the Board.
- (b) Restricted use pesticide dealers shall keep an accurate record of restricted use pesticide sales, which, at a minimum show:
- (1) Complete brand name of the pesticide.
 - (2) EPA registration number of the pesticide.
 - (3) Date the pesticide was sold.
 - (4) Total amount of restricted use pesticide sold.
 - (5) Name of the person to whom sold.
 - (6) Name and license or certification number of the certified or private applicator.
 - (7) Other information as required by the Board.
- (c) Failure to allow inspection of these records by the Board, to provide copies to the Board when requested in person, or to provide a summary of these records within seven (7) working days when requested by mail or in person shall be a violation of this section.
- (d) The principle place of business where records are maintained shall be easily accessible to authorized agents of the Board during reasonable business hours. An applicator's principle place of business shall not be located in a closed gated community or at a residence unless the applicator submits a plan of access to the principle place of business and that plan is approved by the Board.

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) (~~2016~~ 2017 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 25. SEED

35:30-25-1. Definitions

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

"Grower's declaration" or **"Shipper's declaration"** means a written statement of a grower, shipper, processor, dealer, or importer giving for any lot of seed the kind, variety, type, origin, or the use for which the seed is intended.

"Hybrid" means, when applied to kinds of varieties of seed, the first generation seed of a cross produced by controlling the pollination and by combining: two or more inbred lines; one inbred or a single cross with an open pollinated variety; or two selected clones, seed lines, varieties, or species.

"**Mixture**" means seed consisting of more than one kind or variety each present in excess of five percent (5%) of the whole. When so mixed, the label should be marked with the word "mixed" or "mixture".

"Retail Seed Dealer" means any person who sells or offers for sale, agricultural seed to consumers for planting.

"Wholesale Seed Dealer" means any person who sells or offers for sale, agricultural seed to retailers, distributors, brokers, or other wholesalers for resale.

35:30-25-7. Variety labeling

- (a) correct varietal labeling is the responsibility of the person labeling the seed unless that person holds a valid "Grower's or Shipper's Declaration" showing signature and address of grower or shipper, date and quantity of purchase, state and county where grown, grower's or shipper's lot number, purchaser's receiving lot number, date and place of delivery, and other information necessary to ensure the identity of the variety declared. Any shipper's declaration as to variety shall be substantiated by a valid grower's declaration or shipper's declaration. A valid grower's declaration of variety shall affirm that the grower holds records of proof concerning parent seed like invoice and labels.
- (b) If incorrect varietal labeling is determined by field or laboratory test and the retail or wholesale seed dealer holds a valid grower's or shipper's declaration, the responsibility for misrepresentation as to variety rests with the grower or shipper signing the declaration.
- (c) ~~Dealers~~ Retail or wholesale seed dealers who blend several lots of the same variety purchased from different growers shall be responsible for correct varietal labeling unless bulking records, grower's or shipper's declarations, and file samples are kept on each lot going into the blend.
- (d) Grower's or shipper's declarations shall be obtained prior to labeling.
- (e) The grower who signs a "Grower Declaration" as to variety is required under the State and Federal Seed Act to keep a sample of seed, a copy of the grower's declaration on the seed sold as to variety; also tags, labels, and/or invoice of parent seed which was the basis for his declaring the variety.

35:30-25-14. Seed advertisements

Any person that places or causes to be placed a seed advertisement in any statewide or local publication or bulletin shall include the retail or wholesale seed dealer's license number in the advertisement.

35:30-25-15. Schedule of seed program fees

- (a) The annual license fee shall be Twenty Five Dollars (\$25.00) for each retail seed dealer and One Hundred Dollars (\$100.00) for each ~~retail-wholesale~~ wholesale seed dealer. Each license shall expire on June 30 of each year.
- (b) Wholesale seed dealers need only secure a single wholesale dealer's license to engage in both retail and wholesale sales.
- (c) Failure to remit a retail or wholesale seed dealer license renewal application within thirty (30) days after the renewal date shall result in a penalty equal to the cost of an additional license.
- ~~(b)~~(d) An inspection fee of eight cents (\$0.08) per hundred pounds shall be paid by 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.

(1) A semi-annual affidavit, stating the number of pounds of seed sold for the preceding six (6) months, shall be filed no later than the last day of January and July and the inspection fee shall be paid upon filing of the affidavit.

(2) Failure to submit the semi-annual statement on time shall result in an inspection fee penalty of ten percent (10%) of the amount due or Ten Dollars (\$10.00), whichever is greater.

~~(e)~~(e) 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 Title 2 of the Oklahoma Statutes, the Board shall assess a penalty fee of ten percent (10%), not to exceed Two Thousand Dollars (\$2,000.00) of the 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 of the entire amount shall be made within thirty (30) calendar days of notice of the deficiency.

SUBCHAPTER 27. FEED

PART 1. COMMERCIAL FEED

35:30-27-11. Schedule of feed program fees

(a) Each application to obtain a license to manufacture or distribute commercial feed products within the state shall be accompanied by a license fee of ~~Twenty Dollars (\$20.00)~~ Fifty Dollars (\$50.00). License renewal applications received thirty (30) days after the due date shall be subject to a late filing fee of Fifty Dollars (\$50.00).

(b) An inspection fee of fifteen cents (\$0.15) per ton shall be paid on commercial feeds and/or feed ingredients. The minimum semi-annual inspection fee shall be Ten Dollars (\$10.00). Inspection fees which are due and have not been remitted to the Board within fifteen (15) days following the date due shall have a penalty fee of ten percent (10%) or Fifty Dollars (\$50.00) minimum added to the amount due when payment is finally made.

(c) If the Board finds any deficient inspection fees due, as a result of an audit of the records of any person subject to the provisions of the Oklahoma 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.