ENROLLED SENATE
BILL NO. 1424

By: Easley of the Senate

and

Leist of the House

An Act relating to agriculture; defining terms relating to nurseries; authorizing certain authorities to inspect certain places; providing for notice; providing for hearing; making certain actions unlawful; authorizing enforcement actions; prohibiting certain damages; requiring certificate of inspection; granting the State Board of Agriculture certain authority; stating parameters for removal of certain plants infested with plant pests; requiring labels on certain plants; requiring seller of turf grass to provide certain information; setting fees; providing for expiration of licenses; providing for non-transfers; providing penalties; stating violations; providing for deposits of certain fees; authorizing the State Board of Agriculture to establish a quarantine; providing for promulgation of rules prohibiting or restricting the transportation and other enforcement authority; amending 2 O.S. 1991, Sections 3-81, 3-82, 3-83, 3-84, 3-85, as amended by Section 2, Chapter 229, O.S.L. 1992, 3-86, 3-100, 3-100.1, 3-101, 3-103, 3-106, 3-107, 3-113, as amended by Section 1, Chapter 290, O.S.L. 1992, 3-114, 3-116, 3-117, 3-121, 3-122 and Section 1, Chapter 204,, O.S.L. 1994 (2 O.S. Supp. 1999, Section 3-220), as last amended by Section 1 of Enrolled Senate Bill No. 892 of the 2nd Session of the 47th Legislature (2 O.S. Supp. 1999, Sections 3-85 and 3-113), which relate to pesticides, licensure of pesticide applicators, apiaries, and noxious weeds; deleting definitions; adding and modifying definitions; clarifying language; deleting obsolete language; modifying procedures for denial of the application for certain reasons; adding certain fees; providing for penalty; providing for notice; requiring certain permits; stating qualifications; authorizing establishment of certain categories of pesticide sales; setting fees; requiring registration; requiring the filing of certain information; setting registration fees; requiring certain formulas; providing notice of certain deficiencies; providing for hearing; authorizing cancellation of certain registration; stating exception; establishing certain categories of license; stating certain parameters; providing procedures for registration for pesticides; requiring

certain reports to be furnished in a certain period of time; requiring certain records to be kept for certain period of time; declaring certain plant or animal life or virus a pest; providing for promulgation of rules for certain uniformity; providing for promulgation of rules for the conformity with the primary standards as have been or may have been prescribed by the Federal Insecticide, Fungicide and Rodenticide Act; authorizing promulgation of rules for the application or sale of pesticides; setting concentration for certain pesticides; providing for notice of certain violations; authorizing examinations of pesticides or devices to determine compliance; providing for notice and opportunity for hearing for certain non-compliances; authorizing seizures; providing for costs; stating parameters for disposal; stating certain exceptions for violations; authorizing the Department of Environmental Quality to have certain jurisdictions; making certain actions or omissions unlawful; updating, adding, clarifying violations; providing for suspension, cancellation,, revocation, or refusal to reissue any permit, registration, or certificate; providing notice; stating parameters for violations; increasing certain penalties and fines; modifying and deleting certain definitions relating to the Oklahoma Apiary Act; updating and clarifying act; clarifying certain fees; making certain entities responsible for removing thistle infestation; setting fine; providing for complaint; providing for procedures; removing certain duties of county commissioners; amending Section 4, Chapter 157, O.S.L. 1999 (2 O.S. Supp. 1999, Section 5-3.4), which relates to the Oklahoma Agriculture Enhancement and Diversification Program; providing for confidentiality for certain information compiled by the State Department of Agriculture; providing exceptions; authorizing executive sessions; amending 2 O.S. 1991, Sections 6-1, 6-2, 6-3, 6-4, as amended by Section 3, Chapter 138, O.S.L. 1996, 6-21, 6-22, 6-27, 6-91, 6-92, as amended by Section 4, Chapter 138, O.S.L. 1996, 6-93, 6-94, as last amended by Section 85, Chapter 133, O.S.L. 1997, 6-95, as amended by Section 6, Chapter 138, O.S.L. 1996, 6-96, 6-97, 6-99, 6-100, 6-101, 6-102, 6-124, as amended by Section 3, Chapter 296, O.S.L. 1992, 6-125, as last amended by Section 86, Chapter 133, O.S.L. 1997, Section 2, Chapter 75, O.S.L. 1996, Section 4, Chapter 75, O.S.L. 1996, Section 5, Chapter 75, O.S.L. 1996, 6-141, as amended by Section 7, Chapter 138, O.S.L. 1996, 6-142, 6-143, 6-145, 6-146, 6-147, 6-149, 6-150, 6-151, 6-152, 6-153, 6-185, Section 1, Chapter 5, O.S.L. 1994, and 6-302 (2 O.S. Supp. 1999, Sections 6-4, 6-92, 6-94, 6-95, 6-124, 6-125, 6-132, 6-134, 6-135, 6-141 and 6-291), which relate to Livestock Diseases; deleting language establishing Veterinary Division of the State Department of

Agriculture; deleting obsolete language; clarifying language; modifying procedure for selecting appraiser for diseased livestock; modifying amount of certain payment; stating livestock infected or exposed to any contagious disease shall not be removed or sold without permission; depositing certain funds in the State Department of Agriculture revolving fund; modifying certain definitions; authorizing Board to set fees and expiration dates for permits to feed garbage to certain swine; modifying requirements for the brucellosis control program; modifying parameters for approval of laboratories to conduct certain tests; requiring packing plants to collect and identify blood samples from certain animals; modifying penalties; deleting certain branding requirements; setting penalty for certain violation; authorizing the State Veterinarian certain authority; providing for individual identification of certain animals; giving State Veterinarian certain authority; modifying parameters for quarantine of animals infected with brucellosis; modifying requirements of brucellosis control program; removing certain requirement for announcement by livestock markets; modifying quarantine notice requirements; modifying definitions; modifying procedures for retest; setting timeline for slaughter of certain animals; modifying conditions allowing for non-payment of indemnity; modifying definitions; clarifying liability for certain shipping requirements; modifying statutory references; stating parameters to release exotic livestock into the wilds of Oklahoma; modifying requirements for documents necessary to transport livestock; amending Section 1, Chapter 68, O.S.L. 1998, and 63 O.S. 1991, Sections 1-1301.2, as amended by Section 5, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994, 1-1301.3, as amended by Section 6, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994, 1-1301.4, as last amended by Section 7, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994, 1-1301.5, as renumbered by Section 30, Chapter 140, O.S.L. 1994, and as last amended by Section 3, Chapter 289, O.S.L. 1994, 1-1301.6, as amended by Section 9, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994, 1-1301.7, as amended by Section 10, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994, 1-1301.8, as amended by Section 11, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994, 1-1301.9, as amended by Section 12, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994, 1-1301.10, as amended by Section 13, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994, 1-1301.11, as amended by Section 14, Chapter 140, O.S.L. 1994, and as

renumbered by Section 30, Chapter 140, O.S.L. 1994, 1-1301.12, as amended by Section 15, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994, 1-1301.13, as amended by Section 16, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994, 1-1301.14, as amended by Section 17, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994, 1-1301.15, as amended by Section 18, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994, 1-1301.16, as amended by Section 19, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994, and 1-1301.19, as amended by Section 22, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994 (2 O.S. Supp. 1999, Sections 7-1.1, 7-402, 7-403, 7-404, 7-405, 7-406, 7-407, 7-408, 7-409, 7-410, 7-411, 7-412, 7-413, 7-414, 7-415, 7-416 and 7-419), which relate to milk and dairy products and milk products plants; modifying authority to create certain committee; clarifying language; modifying and adding definitions; modifying authority for promulgation of certain rules; deleting obsolete language; requiring certain persons to obtain permits for certain premises or facilities; authorizing the Commissioner of Agriculture to issue permits and classifications for milk and milk products; providing for adoption of certain rules; modifying duties of Commissioner; modifying parameters for persons affected with communicable diseases and working at dairy farmers and milk plants; authorizing the State Board of Agriculture to establish fee on milk and milk products; modifying requirements for action for the condemnation and destruction of certain dairy products; authorizing the court to have quarantined articles delivered to the owner for certain labeling or processing; amending 2 O.S. 1991, Sections 8-21, 8-22, 8-23, 8-24, 8-25, 8-26, 8-27, 8-29, 8-41.3, as amended by Section 1, Chapter 163, O.S.L. 1995, 8-41.4, as amended by Section 2, Chapter 163, O.S.L. 1995, 8-41.5, as amended by Section 3, Chapter 163, O.S.L. 1995, 8-41.6, 8-41.7, as amended by Section 4, Chapter 163, O.S.L. 1995, 8-41.8, as amended by Section 5, Chapter 163, O.S.L. 1995, 8-41.9, as amended by Section 6, Chapter 163, O.S.L. 1995, 8-41.12, as amended by Section 8, Chapter 163, O.S.L. 1995, 8-41.13, 8-41.15, as amended by Section 9, Chapter 163, O.S.L. 1995, Section 249, Chapter 145, O.S.L. 1993, as last amended by Section 12, Chapter 413, O.S.L. 1999, 8-91, 8-92, 8-93, and 8-95 (2 O.S. Supp. 1999, Sections 8-41.3, 8-41.4, 8-41.5, 8-41.7, 8-41.8, 8-41.9, 8-41.12, 8-41.15 and 8-41.16), which relate to agriculture seeds; modifying and adding terms; clarifying and updating language; removing certain application of seed law; removing certain fees and retail license stamp; conforming language; modifying procedures for licensure and compliance;

providing for deposit of certain funds; prohibiting certain use of information; creating the Oklahoma Fertilizer Act; providing for the administration of this act; defining terms; providing exceptions; setting certain fees; providing for application and licensure; providing for contents; prohibiting certain actions; requiring certain labeling requirements; providing for license inspection fees; requiring certain reports and information; specifying assessments and penalties; specifying certain exemptions; providing for non-disclosure of certain information; providing for adoption of certain sampling and analysis; providing for official samples; providing for determination for assessments of deficiencies; providing procedures; providing for determination of certain nutrients; specifying when a fertilizer is misbranded, and adulterated; providing for publication of certain information; prohibiting certain discharges or releases; adding to powers and duties of the State Department of Agriculture; specifying powers and duties of the Department of Environmental Quality; requiring certain storage; providing for seizure and disposal; authorizing certain procedure for violations; providing for construction of act; modifying and clarifying definitions relating to noxious weeds; updating language; amending 2 O.S. 1991, Sections 10-2, Section 17, Chapter 232, O.S.L. 1998, Section 19, Chapter 232, O.S.L. 1998, Section 21, Chapter 232, O.S.L. 1998, Section 10-21, as amended by Section 1, Chapter 126, O.S.L. 1994, 10-23, as amended by Section 2, Chapter 126, O.S.L. 1994, 10-25, 10-26, as amended by Section 3, Chapter 126, O.S.L. 1994, 10-27, 10-28, and 10-30 (2 O.S. Supp. 1999, Sections 10-9.17, 10-9.19, 10-9.21, 10-21, 10-23, and 10-26), which relate to poultry and poultry products; naming the Board of Agriculture as the official state agency in all matters related to the health of birds and hatching of eggs; deleting obsolete language; authorizing waiver of certain fees; clarifying language; relating to the Oklahoma Poultry Waste Applicators Certification Act; removing certain duplicative records requirements; requiring annual reports; updating provision relating to State Poultry Shows; repealing 2 O.S. 1991, Sections 3-1, 3-11, 3-12, 3-13, 3-14, 3-15, 3-16, 3-17, 3-18, 3-19, 3-20, 3-21, 3-22, 3-23, as amended by Section 16, Chapter 278, O.S.L. 1993, 3-24, 3-25, 3-26, 3-27, 3-28, 3-29, 3-30, 3-31, 3-51, 3-52, 3-61, 3-62, 3-63, as amended by Section 1, Chapter 231, O.S.L. 1999, 3-64, 3-65, 3-66, 3-67, 3-68, 3-69, 3-70, as amended by Section 1, Chapter 229, O.S.L. 1992, Section 248, Chapter 145, O.S.L. 1993, as last amended by Section 11, Chapter 413, O.S.L. 1999, 3-89, 3-90, 3-91, 3-92, 3-93, 3-94, 3-95, 3-96, 3-141, 3-142, 3-143, 3-144, 3-171, 3-201, 3-202, 3-203, 3-204, 3-205, 3-206, 3-207, 3-208, 3-209, 3-210, 3-271, 3-272, 3-273, 3-274, 3-

275, 3-276, 3-277, 3-278, 5-71, 5-72, 5-73, 5-74, 5-75, 5-76, 5-77, 5-78, 5-79, 6-23, 6-24, 6-25, 6-26, 6-28, 6-103, 6-104, 6-105, 6-106, 6-121, as amended by Section 2, Chapter 296, O.S.L. 1992, 6-122, 6-123, 6-126, Sections 6 and 7, Chapter 75, O.S.L. 1996, 6-144, 6-148, 6-154, 6-156, 6-301 (2 O.S. Supp. 1999, Sections 3-23, 3-63, 3-70, 6-121, 6-136 and 6-137), 63 O.S. 1991, Sections 1-1301.18, as amended by Section 21, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994 and 1-1301.20, as amended by Section 23, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994, 8-1, 8-28, 8-41.10, 8-41.11, as amended by Section 7, Chapter 163, O.S.L. 1995, 8-41.14, 8-61, 8-61a, 8-62, 8-63, 8-64, 8-65, 8-66, 8-67, 8-68a, as last amended by Section 13, Chapter 413, O.S.L. 1999, 8-69, 8-70, 8-71, 8-72, 8-73, 8-74, 8-94 and 8-96, 10-1, 10-41, 10-42, 10-61, 10-62, 10-63, 10-64, 10-65, 10-66, 10-67 and 10-68 (2 O.S. Supp. 1999, 8-41.11 and 8-68a), which relate to plant industry, commodities; livestock diseases, milk and dairy products; seed and fertilizer and poultry; providing for codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-32.1 of Title 2, unless there is created a duplication in numbering, reads as follows:

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 either the nursery stock which is involved 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 State 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 the person but which was bought, received on consignment, or acquired and in the person’s possession;

6. “Dangerously injurious plant pest” means a plant pest that constitutes a significant threat to the agricultural, silvicultural, or horticultural interests of this state, or the state's general environmental quality as determined by the State Board of Agriculture;

7. “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;

8. "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;

9. “Native species” means a species that, other than due to an introduction, historically occurred or currently occurs in that ecosystem;

10. “Nursery” means and includes any field, ground, greenhouse, bin, pit, plot, or premise where nursery or floral stock is grown, propagated, or sold;

11. “Nursery operator” means the person who owns, leases, manages, or is in control of a nursery, and is further defined as any person who is a grower of nursery stock;

12. “Nursery stock” means and includes, whether in field or container, all trees, shrubs, vines, rosebushes, cuttings, grafts, scions, fruit pits, herbaceous plants, evergreens and other ornamental trees, bushes, collected wild plants and trees, decorative 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, agronomic crops, cut or dried flowers, and herbs;

13. “Pest” means any living agent that is known to cause damage or harm to agriculture or the environment;

14. “Phytosanitary certificate” means a document issued by the State Board of Agriculture 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;

15. “Plant pest” means any pest of plants, agricultural commodities, horticultural products, nursery stock, or non-cultivated plants. 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;

16. “Sales location” means any principal business location where nursery stock is sold directly to a customer;

17. “Sell” means to offer for sale, expose for sale, possess for sale, exchange, barter, or trade;

18. “Seasonal sales operations” means business operations engaged in the nursery business for not more than a total of one hundred eighty days (180) in a calendar year;

19. "Silviculture" means the development and care of forests;

20. “Stop sale” means a legal document issued by the Board that prevents the sale of nursery stock due to an infestation of a dangerously injurious plant pest;

21. “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;

22. “Vegetable plant” means any plant grown from seed or other vegetative parts and sold as a transplant for the purpose of food production.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-32.2 of Title 2, unless there is created a duplication in numbering, reads as follows:

Authorized agents of the State Board of Agriculture shall have the authority to inspect any orchard, fruit or garden, park, cemetery, private premises, public place, or any place which 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. The Board, after notice and opportunity for a hearing as provided in the Administrative Procedures Act, shall 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.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-32.3 of Title 2, unless there is created a duplication in numbering, reads as follows:

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.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-32.4 of Title 2, unless there is created a duplication in numbering, reads as follows:

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.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-32.5 of Title 2, unless there is created a duplication in numbering, reads as follows:

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.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-32.6 of Title 2, unless there is created a duplication in numbering, reads as follows:

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.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-32.7 of Title 2, unless there is created a duplication in numbering, reads as follows:

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.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-32.8 of Title 2, unless there is created a duplication in numbering, reads as follows:

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 Board 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; or

17. Failing to comply with any order of the Board.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-32.9 of Title 2, unless there is created a duplication in numbering, reads as follows:

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

SECTION 10. AMENDATORY 2 O.S. 1991, Section 3-81, is amended to read as follows:

Section 3-81. ~~The following terms, as~~ As used in this subarticle ~~herein, shall have the meanings hereafter indicated and shall be so construed~~:

1. ~~"Board" means the Board of Agriculture.~~

~~2. "Pesticide" means any 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, except viruses on or in living man or other animals which the Board shall declare to be a pest.~~

~~3. "Insecticide" means any pesticide intended for preventing, destroying, repelling, or mitigating any insects which may be present in any environment whatsoever.~~

~~4. "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and wood lice.~~

~~5. Herbicide" means any pesticide intended for preventing, destroying, repelling, or mitigating any weed, or for defoliating plants, preventing fruitdrop, and inhibiting sprouting.~~

~~6. "Weed" means any plant or plant part which grows where not wanted.~~

~~7. "Fungicide" means any pesticide intended for preventing, destroying, repelling, or mitigating any fungi or bacteria.~~

~~8. "Fungi" means all nonchlorophyll-bearing thallophytes, that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts, as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other animals.~~

~~9. "Defoliant" means any pesticide intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.~~

~~10. "Desiccant" means any pesticide intended for artificially accelerating the drying of plant tissues.~~

~~11. "Commercial application" means the advertising of services, recommendation for use, the preparation for application and physical act of application of a pesticide or employment of a device for hire or compensation.~~

~~12. "Commercial applicator" means any person who engages in commercial application of pesticides or commercial employment of devices. Any farmer while working for his neighbor in agricultural production on neighboring land, and not advertising, nor holding himself out to be in the business of applying restricted use pesticides, shall not be classified as a commercial applicator.~~

~~13. "Person" means any individual, partnership, firm, corporation, company, association, organized group of persons whether incorporated or not or other legal entity.~~

~~14. "Aircraft" means any contrivance now known or hereafter invented that is used or designed for navigation of or flight in the air over land or water, and that is designed for or adaptable for use in applying pesticides, as sprays, dusts, or in other forms.~~

~~15. "Ground equipment" means any machine, equipment, or device other than aircraft that is designed for use, adaptable for use, or that is used, on land or water, in applying pesticides, as sprays, dusts, aerosols, fogs, or in other forms.~~

~~16. "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 his employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person~~.

~~17. "Noncommercial applicator" means any person, other than a commercial or private applicator, who uses or supervises the use of a restricted use pesticide under the supervision of a person who owns or manages the property, and who has been certified to be competent by the Board with respect to the use and handling of restricted pesticides in the same manner as required for a commercial applicator. A noncommercial applicator is subject to all provisions except the requirements of this act pertaining to financial responsibility. Noncommercial applicator also means a government employee in the discharge of his official duties.~~

~~18. "Certification standards" means the standards established by the Board with respect to pesticides that a person must meet to assure competency as a certified applicator. Certification standards shall be in the form of a written and/or practical examination and conducted at such locations and times as determined by the Board. The Board may also establish prerequisite requirements in any category. Recertification procedures will be established by the Board and may be written and/or other methods satisfactory to the Board.~~

~~19. "Certified applicator" means a person who has met the certification standards.~~

~~20. "Business location" means any place, site, facility maintained by a commercial or noncommercial applicator where records such as financial statements, payroll, insurance, and personnel documents are maintained, pesticides are stored, and from which~~

~~customers are served, provided that a location serving strictly as a telephone answering service shall not be considered as a business location.~~

~~21. "Use" is defined herein as transportation, storage, mixing, application, safety, waste and container disposal and any other specific instructions contained on the label and associated labeling.~~

~~22. "License" means a written document issued to a person by the Board which shows that the person has met all of the licensing requirements established by this act and is authorized to apply pesticides as a commercial, noncommercial, or private applicator in accordance with the type license issued.~~

~~23. "Certificate" means a written document issued to an individual by the Board which indicates that the individual has met the certification standards established by this act for the category of pesticide application shown on the certificate. A certificate does not allow a person to do work as a commercial, noncommercial, or private applicator unless he is employed by a company or has a valid license issued by the Board.~~

~~24. "Pest" means any organism harmful to man including insects, mites, nematodes, weeds, and pathogenic organisms. The latter include viruses, mycoplasma, bacteria, rickettsia, and fungi which the Board declares to be a pest.~~

~~25. "Contract" means a binding agreement between two or more persons or parties that spells out in writing the terms and conditions of such agreement and includes but not be limited to warranties or guarantees for pesticide application and 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.~~

~~26. "Minimum standards" means the irreducible minimum measures prescribed by the Board deemed necessary to bring worthwhile pesticide application services to the public.~~

~~27. "Wood infestation report" means any document issued in conjunction with a property transaction which must, as a minimum, contain statements or certifications about the property as to the presence or absence of termites and any other wood destroying organism, and the presence or absence of damage therefrom, other than a bid or proposal for treatment.~~

~~28. "Device" means any instrument or contrivance 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 such other pests as may be designated by the Board, but not including equipment used for the application of pesticides when sold separately therefrom.~~

~~29. "Label" means the written, printed, or graphic matter on or attached to the pesticide or device or the immediate container~~

~~thereof, and the outside container or wrapper of the retail package, if any, of the pesticide or device.~~

~~30. "Labeling" means all labels and other written, printed, or graphic matter:~~

~~a. upon the pesticide or 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, or 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.~~

~~31. "Rodenticide" means any pesticide intended for preventing, destroying, repelling, or mitigating rodents or any other vertebrate animal which the Board shall declare to be a pest.~~

~~32. "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 provisions of the Oklahoma Pesticide Law.~~

~~33. "Direct supervision" means that the certified applicator is responsible for assuring that those working subject to his direct supervision are qualified to handle pesticides and are instructed in the application of the specific pesticides used in each particular application conducted subject to his supervision. Certified applicator shall be in the State of Oklahoma and be accessible to the noncertified applicator at all times during the application by telephone or radio.~~

~~34. "Service technician" means a person employed by a licensed commercial or noncommercial applicator who makes the actual application of pesticides or employs a device, provided that such person is not the certified applicator. A service technician or certified applicator shall be present at each job performed~~

"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 this subarticle 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, and 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 of 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 this subarticle 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 this subarticle,

(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 this subarticle 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. "Non-restricted use pesticide" means any pesticide, other than a pesticide classified as restricted-use pesticide;

31. "Non-restricted 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 this subarticle and is authorized to sell pesticides as a restricted use or non-restricted 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 this subarticle;

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

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

43. "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 organism, and the presence or absence of damage. The wood infestation report does not include a bid or proposal for treatment.

SECTION 11. AMENDATORY 2 O.S. 1991, Section 3-82, is amended to read as follows:

Section 3-82. A. LICENSE REQUIRED - 1. It shall be unlawful ~~and a misdemeanor~~ for any person to act, operate, or do business or advertise as a commercial, noncommercial, service technician, or private applicator unless ~~such~~ 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 ~~under the provisions of this act~~ in any category of pesticide application~~, provided~~ if the applicant qualifies ~~under the provisions of this act~~ and the applicant is limited to the category of pesticide application named on the license. The Board ~~shall~~ may establish ~~such~~ categories of pesticide application as ~~it deems~~ necessary. Licenses shall be issued ~~only~~ upon application ~~therefor~~ to the Board on a form ~~of application~~ prescribed by the Board~~, and the~~. The application shall contain information regarding the applicant's qualifications ~~and~~, proposed operations, and ~~such~~ other information as ~~may be~~ specified by the Board. An aerial license shall not be issued or be valid unless the applicant ~~possesses and has filed~~ 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.

3. Each business location shall require a separate license and separate certified applicator.

~~The Board by regulation may require a certified applicator to be present at the location where designated pesticide applications are to be used in order to use or supervise the use of such pesticides.~~

B. CERTIFICATION REQUIRED - 1. A license shall be issued only after satisfactory completion of the certification standards by the ~~particular~~ person who ~~will~~ shall be the certified applicator under the license. ~~A~~ 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 ~~and regulations prescribed by the Board,~~ or for violations of any ~~of the~~ provisions of this ~~act shall make it the duty of the Board to deny the application for certification or recertification or deny the issuance or renewal of a certificate or license~~ subarticle. A certificate in any category shall be valid for five (5) years unless suspended, canceled, or revoked by the Board or until recertification is ~~deemed necessary~~ required for ~~said~~ the category, and may be renewed after successful completion of recertification requirements. The Board may require certified applicators to be recertified ~~not to exceed one recertification~~ once in a five-year period.

2. A certified service technician identification shall be issued upon application and completion of ~~such~~ certification standards ~~by the applicant as are~~ determined by the Board. No person shall act, do business as, or advertise as a service technician unless ~~such~~ the person has met all the qualifications and standards as ~~determined necessary~~ 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, ~~or~~ until recertification is ~~deemed necessary~~ required by the Board, or until the service technician leaves the employ of the licensed entity.

3. ~~All licenses~~ Each license, except ~~of~~ for private applicators, shall expire on the 31st day of December following ~~their~~ 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 ~~such~~ that date, a penalty of twice the amount of the renewal fee shall be charged for renewal of the ~~license(s)~~ license. After the 1st day of February, in addition to the penalty, a reexamination shall be required.

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 Fifty Dollars ($50.00) 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 Two Hundred Fifty Dollars ($250.00) total category fees shall be charged annually to any business location of an applicator;

2. A fee of Twenty Dollars ($20.00) shall be paid to the Board for each written examination conducted by the Board;

3. A fee of Twenty Dollars ($20.00) shall be paid to the Board for each practical examination conducted by the Board;

4. A fee of Five Dollars ($5.00) shall be paid to the Board for the issuance or renewal of a private applicator's license;

5. A fee of Twenty Dollars ($20.00) shall be paid to the Board for the issuance or renewal of a noncommercial business license;

6. A fee of Ten Dollars ($10.00) shall be paid to the Board for the issuance or renewal of service technician identification;

7. A fee of Five Dollars ($5.00) shall be paid to the Board for the issuance of duplicate licenses or certificates or transfer of a service technician identification;

8. No fees shall be charged to governmental agencies or their employees in the discharge of their official duties;

9. A fee of Twenty Dollars ($20.00) shall be paid to the Board for each recertification procedure; and

10. A fee of Twenty Dollars ($20.00) shall be paid to the Board for each reciprocal certification procedure for applicator certifications.

D. All ~~such~~ fees shall be deposited in the State ~~Board~~ 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.

~~D.~~ 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 ~~thereof~~ by an insurer or broker authorized to do business in this state insuring the commercial applicator and any ~~of his~~ agents against liability resulting from the operations of the commercial applicator. ~~Such~~ 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 ~~as provided for in this section~~ shall not be less than that set by the Board for each property damage arising out of actual use of any pesticide. ~~Such~~ 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. ~~Should~~ If the furnished liability ~~furnished become~~ becomes unsatisfactory, ~~said~~ the applicant shall ~~upon notice~~ immediately execute new liability ~~and should he fail to do so~~ upon notice from the Board. If new liability is not immediately obtained, the Board shall, upon notice, cancel ~~his~~ the license ~~and give him notice of said fact and it~~. It shall be unlawful ~~thereafter~~ for ~~such~~ the person to engage in ~~said~~ the business of applying pesticides until the liability is brought into compliance ~~with the requirements of this section~~ and ~~his~~ the license reinstated.

H. DAMAGES - No action for ~~such~~ alleged damages to growing annual crops or plants may be brought or maintained~~, however,~~ unless the person claiming the damages ~~shall have~~ has filed with the Board a written statement of alleged damages~~,~~ on a form prescribed by the Board~~,~~ within ninety (90) days ~~after~~ of the date that the alleged damages occurred, or prior to the time that twenty-five percent (25%) of a damaged crop ~~damaged shall have~~ has been harvested.

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 subarticle 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 Twenty Dollars ($20.00) for each location; and

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 One Hundred Dollars ($100.00) for each pesticide or device label registered. These fees shall be used by the State Department of Agriculture for purposes of administering pesticide management programs.

4. The Board may require the submission of the complete formula of any pesticide. 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 subarticle, then the pesticide shall be registered.

5. If it does not appear to the Board that the pesticide is adequate to warrant the proposed claims for it or if the pesticide, its labeling, and other material required to be submitted do not comply with the provisions of this subarticle, it shall notify the applicant of the deficiencies in the pesticide, 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, 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 be considered as a defense or excuse for the commission of any offense prohibited under this subarticle.

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.

SECTION 12. AMENDATORY 2 O.S. 1991, Section 3-83, is amended to read as follows:

Section 3-83. A. Every commercial and noncommercial applicator shall keep ~~an~~ accurate ~~record~~ records pertaining to pesticide activities, ~~which, as a minimum, shall show the time and place of each commercial and noncommercial application of pesticides, name and address of applicator, name and address of person for whom used, legal description of land where used, date used, tank mix, dilution~~

~~rate, and quantity used, complete trade name and registration number of product used, target pest and use site, and such other information as may be required by the Board~~ applications, and wood infestation reports, as required by the State Board of Agriculture. ~~Such~~ The records of the applicator shall be kept intact at the principal business location in this state ~~of the applicator~~ 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 ~~such~~ records as ~~it deems~~ necessary to carry out the provisions of ~~this act~~ the Oklahoma Agriculture Code.

SECTION 13. AMENDATORY 2 O.S. 1991, Section 3-84, is amended to read as follows:

Section 3-84. A. Upon receipt of a petition bearing the signatures of not less than twenty-five (25) actual occupants of the agricultural lands of a county, the State Board of Agriculture or an authorized agent thereof shall hold a public hearing in the county to determine whether dates should be established after which no hormone-type ~~of~~ spray may be applied by commercial applicators or whether established dates restricting applications of hormone-type herbicide by commercial applicators should be removed. Notice of ~~such~~ the hearing shall be published in one issue of a daily, weekly, or biweekly newspaper having general circulation in the county. After ~~such~~ the hearing, the Board ~~may~~ shall have the authority to establish dates after which no hormone-type pesticide may be sprayed in the county, or any designated part ~~thereof~~, for a period specified by the Board or to remove the restrictions previously established. The Board shall not be required to hold more than one hearing each ~~one hundred and twenty (120) days~~ calendar year concerning any county or part ~~thereof~~.

B. 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 subarticle.

C. The Board shall promulgate appropriate rules for carrying out the provisions of this subarticle, including, but not limited to, rules providing for the collection and examination of any samples necessary to evaluate the quality, quantity, or effectiveness of pesticides or devices.

D. There shall be uniformity between the requirements of Oklahoma, the several states, and the Federal Government relating to the coloring or discoloring of pesticides. The Board may promulgate rules applicable to and in conformity with the primary standards established by this subarticle, as have been or may be prescribed by the Federal Insecticide, Fungicide and Rodenticide Act, as amended.

SECTION 14. AMENDATORY 2 O.S. 1991, Section 3-85, as amended by Section 2, Chapter 229, O.S.L. 1992 (2 O.S. Supp. 1999, Section 3-85), is amended to read as follows:

Section 3-85. A. 1. The State Board of Agriculture shall administer and enforce the provisions of this ~~act~~ subarticle and shall ~~make, adopt, or~~ promulgate ~~regulations~~ rules and standards for the application 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.

2. ~~Such regulations~~ The rules and standards shall conform, as a minimum, to existing state law, and to the Federal Insecticide, Fungicide and Rodenticide Act.

3. The Board shall ~~have the authority 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 ~~act~~ subarticle and securing uniformity of rules.

4. 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 subarticle.

5. 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.

6. The Board may take samples of pesticide materials in order to determine their concentration or residue level. If the Board finds that ~~any~~ such samples are not within established standards,

~~such~~ the Board's finding shall be considered ~~as~~ 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 non-uniform 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 State Department of Agriculture:

(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 threshold level for soil residue of pesticide concentration expressed in parts per million (ppm) for post construction termiticide treatment shall meet or exceed the established concentration specified by this paragraph in soils sampled within one hundred eighty (180) days of treatment for vertical barriers. Soil residue concentration below the threshold level specified by this paragraph shall be prima facie evidence of a use unsuitable, unsafe or inconsistent with its label or labeling:

(1) the termiticide Torpedo shall have a soil residue threshold level of at least sixty-three (63) ppm,

(2) the termiticide Tribute shall have a soil residue threshold level of at least one hundred fifty (150) ppm,

(3) the termiticide Prevail FT shall have a soil residue threshold level of at least forty-six (46) ppm,

(4) the termiticide Demon TC shall have a soil residue threshold level of at least twenty-eight (28) ppm,

(5) the termiticide Dragnet FT shall have a soil residue threshold level of at least eighty-five (85) ppm,

(6) the termiticide Dursban TC shall have a soil residue threshold level of at least fifty-one (51) ppm, and

(7) the termiticide Premise shall have a soil residue threshold level of at least ten (10) ppm;

f. The threshold level for soil residue of pesticide concentration expressed in parts per million (ppm) for preconstruction termiticide treatment shall meet or exceed the established concentration specified by this paragraph in soils sampled within thirty (30) days of treatment for vertical barriers. Soil residue concentration below the threshold level specified by this paragraph shall be prima facie evidence of a use unsuitable, unsafe or inconsistent with its label or labeling:

(1) the termiticide Torpedo shall have a soil residue threshold level of at least ninety (90) ppm,

(2) the termiticide Tribute shall have a soil residue threshold level of at least two hundred four (204) ppm,

(3) the termiticide Prevail FT shall have a soil residue threshold level of at least sixty-four (64) ppm,

(4) the termiticide Demon TC shall have a soil residue threshold level of at least forty-one (41) ppm,

(5) the termiticide Dragnet FT shall have a soil residue threshold level of at least ninety-seven (97) ppm,

(6) the termiticide Dursban TC shall have a soil residue threshold level of at least one hundred (100) ppm, and

(7) the termiticide Premise shall have a soil residue threshold level of at least ten (10) ppm;

g. The threshold level for soil residue of pesticide concentration expressed in parts per million (ppm) for preconstruction termiticide treatment shall meet or exceed the established concentration specified by this paragraph in soils sampled within one hundred eighty (180) days of treatment for vertical barriers. Soil residue concentration below the threshold level specified by this paragraph shall be prima facie evidence of a use unsuitable, unsafe or inconsistent with its label or labeling:

(1) the termiticide Torpedo shall have a soil residue threshold level of at least sixty-three (63) ppm,

(2) the termiticide Tribute shall have a soil residue threshold level of at least one hundred fifty (150) ppm,

(3) the termiticide Prevail FT shall have a soil residue threshold level of at least forty-six (46) ppm,

(4) the termiticide Demon TC shall have a soil residue threshold level of at least twenty-eight (28) ppm,

(5) the termiticide Dragnet FT shall have a soil residue threshold level of at least eighty-five (85) ppm,

(6) the termiticide Dursban TC shall have a soil residue threshold level of at least fifty-one (51) ppm, and

(7) the termiticide Premise shall have a soil residue threshold level of at least ten (10) ppm;

h. The threshold level for soil residue of pesticide concentration expressed in parts per million (ppm) for preconstruction termiticide treatment shall meet or exceed the established concentration specified by this paragraph in soils sampled within thirty (30) days of treatment for horizontal barriers. Soil residue concentration below the threshold level specified by this paragraph shall be prima facie evidence of a use unsuitable, unsafe or inconsistent with its label or labeling:

(1) the termiticide Torpedo shall have a soil residue threshold level of at least sixty-eight (68) ppm,

(2) the termiticide Tribute shall have a soil residue threshold level of at least one hundred fifty three (153) ppm,

(3) the termiticide Prevail FT shall have a soil residue threshold level of at least forty-eight (48) ppm,

(4) the termiticide Demon TC shall have a soil residue threshold level of at least thirty-one (31) ppm,

(5) the termiticide Dragnet FT shall have a soil residue threshold level of at least seventy-three (73) ppm,

(6) the termiticide Dursban TC shall have a soil residue threshold level of at least seventy-five (75) ppm, and

(7) the termiticide Premise shall have a soil residue threshold level of at least five (5) ppm;

i. The threshold level for soil residue of pesticide concentration expressed in parts per million (ppm) for preconstruction termiticide treatment shall meet or exceed the established concentration specified by this paragraph in soils sampled within one hundred eighty (180) days of treatment for horizontal barriers. Soil residue concentration below the threshold level specified by this paragraph shall be prima facie evidence of a use unsuitable, unsafe or inconsistent with its label or labeling:

(1) the termiticide Torpedo shall have a soil residue threshold level of at least forty-seven (47) ppm,

(2) the termiticide Tribute shall have a soil residue threshold level of at least one hundred thirteen (113) ppm,

(3) the termiticide Prevail FT shall have a soil residue threshold level of at least thirty-five (35) ppm,

(4) the termiticide Demon TC shall have a soil residue threshold level of at least twenty-one (21) ppm,

(5) the termiticide Dragnet FT shall have a soil residue threshold level of at least sixty-four (64) ppm,

(6) the termiticide Dursban TC shall have a soil residue threshold level of at least thirty-eight (38) ppm, and

(7) the termiticide Premise shall have a soil residue threshold level of at least five (5) ppm;

j. The State Board of Agriculture may promulgate, by rule, interim maximum and minimum concentrations or thresholds for the other concentrate of pesticides in products, or soil residues.

~~The Board may inspect any work or contracts of each applicator to determine whether or not such work is performed according to the provisions of this act~~.

~~For the purpose of securing uniformity of regulations, 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 regulations of the Board, including without limitation: registration, notification, posting, advertising and marketing, distribution, applicator training and certification, storage, transportation, disposal, disclosure of confidential information or product composition.~~

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 subarticle.

2. If it appears from examination that a pesticide or device fails to comply with the provisions of this subarticle, 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 State Department of Agriculture 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 under the provisions of this subarticle, it fails to bear on its label the information required by this subarticle, or it is a white powder pesticide and it is not colored as required under this subarticle, 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 subarticle 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 subarticle 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 the authority of this subarticle.

F. All authority vested in the Board by the provisions of this subarticle shall with like force and effect be executed by its officers, employees, and authorized agents.

G. EXCEPTION - The fines provided for violations of this subarticle 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 subarticle shall apply.

H. 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 mills, and other agricultural products;

2. Slaughterhouses, but not including feedlots at slaughterhouses;

3. Animal aquaculture and fish hatcheries, including, but not limited to, discharges of pollutants and storm water to waters of the state, surface impoundment and land application of wastes and sludge, and other pollution originating at these facilities;

4. Facilities which store grain, feed, seed, fertilizer, and agricultural chemicals that are required by federal National Pollutant Discharge Elimination Systems 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 discharges; and

5. Any point source and nonpoint source discharges related to agriculture as specified in paragraph 1 of subsection D of Section 6 of Title 27A of the Oklahoma Statutes, which require a federal National Pollutant Discharge Elimination Systems permit and which are not specified under this subsection as being subject to the jurisdiction of the Department of Environmental Quality shall continue to be subject to the direct jurisdiction of the federal Environmental Protection Agency for issuance and enforcement of the permit.

I. ~~Provided, this~~ This section shall not prevent any political subdivision from complying with any applicable federal law or regulation. A political subdivision which ~~must take~~ takes any action ~~otherwise~~ prohibited by this title in order to comply with ~~such~~ federal requirements shall notify the Board of its compliance plan prior to taking any ~~such~~ action. The Board may assist the political subdivision in complying with federal requirements ~~it deems~~ 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.

SECTION 15. AMENDATORY 2 O.S. 1991, Section 3-86, is amended to read as follows:

Section 3-86. 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 ~~hereunder~~ may be suspended, canceled, revoked, or refused issue~~,~~ or reissue by the Board after a ~~hearing~~ notice and an opportunity to be heard has been given to the holder of the license or certificate. ~~Notice thereof shall be given to the holder of the license or certificate by registered or certified mail at least ten (10) days prior to the date of the hearing. Such~~ The suspension, cancellation, revocation, or refusal to issue or reissue may be made if the Board finds:

1. ~~that such~~ A person has made misrepresentations for the purpose of defrauding, or has not satisfactorily performed, without proper cause, any contract into which ~~such~~ the person ~~shall have~~ entered;

2. ~~such~~ A person has used methods or pesticides not suitable or safe for the purpose for which they ~~shall~~ have been employed, or has used a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained from the Board;

3. ~~failure~~ Failure or refusal to furnish the Board, upon request, true information regarding methods, pesticides, and safety measures used, work performed, or other information ~~deemed essential~~ required by the Board, or for making any false statement or representation in ~~such~~ the person's application for issuance or renewal of a permit;

4. ~~any~~ Any violation of state law or ~~of regulations~~ rules or standards prescribed by the Board;

5. ~~the~~ The issuance of an inaccurate, misleading, or fraudulent wood infestation report;

6. ~~failure~~ Failure or refusal to keep and maintain complete and accurate records as specified in this ~~act~~ subarticle;

7. ~~advertising~~ Advertising or ~~in any way~~ 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;

8. ~~failure~~ Failure or refusal to pay by the specified date any fees, fines, or penalties authorized under this ~~act~~ subarticle;

9. ~~failure~~ 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 ~~act~~ article;

10. ~~failure~~ Failure to perform work according to minimum standards authorized by this ~~act~~ subarticle except as agreed by all parties in writing in the contract;

11. ~~falsely~~ Falsely stating that a person is employed by or represents another person;

12. ~~falsely~~ Falsely stating that a person or ~~his~~ methods are recommended by any branch of government or that any specific work ~~will~~ shall be inspected by any branch of government;

13. ~~any~~ Any person to act, operate, do business, or advertise as an applicator unless ~~such~~ the person has obtained a valid license issued by the Board for the category in which the person is engaged;

14. ~~for any person~~ Any persons to be employed or represent ~~himself~~ themselves as ~~a~~ certified ~~applicator~~ applicators or service ~~technician~~ technicians unless ~~such person has~~ they have met the certification standards prescribed by the Board and ~~has~~ obtained ~~a~~ valid ~~certificate~~ certificates or ~~identification~~ identifications issued by the Board for the ~~category~~ categories for which the ~~person is~~ persons are to be employed or ~~supervise~~ supervised;

15. ~~any~~ Any person to act or operate as a private applicator unless ~~such~~ the person has obtained a valid private applicator license issued by the Board;

16. ~~conviction~~ Any person convicted in any court of a violation of this ~~act~~ subarticle, pesticide laws of any other state, or ~~FIFRA~~ the Federal Insecticide Fungicide and Rodenticide Act;

17. ~~failure~~ Failure to correct substandard work within twenty (20) calendar days of written notification unless an extension has been granted in writing by the Board; ~~or~~

18. Failure to comply with the Worker Protection Standard as defined in the Code of Federal Regulations 40 CFR 170;

19. Failure to comply with the provisions of a citation, stop work order, or stop sale order issued by the Board; or

20. Any other proper cause. ~~Except as otherwise provided for by law any~~

B. Any person, holder or nonholder of a valid license~~,~~ ~~convicted of~~ violating any of the provisions of this ~~act~~ subarticle shall be guilty of a misdemeanor and 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), ~~or by~~ imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or ~~by~~ both ~~said fine and imprisonment~~.

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 ~~public~~ notice and an opportunity for hearing in accordance with the Administrative Procedures Act, the Board ~~shall find~~ finds any person to be in violation of any of the provisions of this ~~act~~ subarticle or rules promulgated by the Board, the Board has the authority to assess ~~a civil~~ an administrative penalty of not less than One Hundred Dollars ($100.00) and not more than ~~One Thousand Dollars ($1,000.00)~~ Ten Thousand Dollars ($10,000.00) for

each violation. It shall also be unlawful and a misdemeanor for any person, whether ~~he be~~ or not a commercial or noncommercial license holder ~~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.

SECTION 16. AMENDATORY 2 O.S. 1991, Section 3-100, is amended to read as follows:

Section 3-100. ~~Sections 2 through 12 of this act~~ This subarticle shall be known and may be cited as the Oklahoma Apiary Act.

SECTION 17. AMENDATORY 2 O.S. 1991, Section 3-100.1, is amended to read as follows:

Section 3-100.1 For purposes of the Oklahoma Apiary Act:

1. "Apiary" means a place where one (1) or more colonies of bees are kept.

2. "Bee" means any one of the honey producing genera of Apis including any queen, worker, or drone, or any of their four (4) life stages. The term bee includes, but is not limited to, any species of bees used for commercial pollinating purposes.

3. "Beekeeper" means a person who owns or manages one (1) or more hives of bees for any purpose.

4. ~~"Board" means the State Board of Agriculture, or any authorized agent of the Board.~~

~~5.~~ "Colony" means the hive and its components including bees, comb, honey, propolis, and pollen.

~~6.~~ 5. "Entry permit" means a document issued by the State Board of Agriculture authorizing the transportation of bees or equipment into the state.

~~7.~~ 6. "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 which may be used in any apiary, any vehicle used in transporting bees and their products, or apiary supplies.

~~8.~~ 7. "Hive" means any domicile for keeping bees.

~~9.~~ 8. "Honey house" means any room in any building where honey is extracted, stored in raw form, processed, or packaged.

~~10.~~ 9. "Migratory beekeeper" means a beekeeper who moves colonies of bees 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.

~~11. "Person" means any individual, partnership, firm, corporation, company, association, organized group whether incorporated or not or other legal entity.~~

~~12.~~ 10. "Pest" means any living organism which is responsible, directly or indirectly, for any condition which is or may be harmful to bees in any of their four (4) life stages, or interferes with their management~~,~~ including, but not limited to, diseases, parasites, and Africanized strains of honey bees.

~~13.~~ 11. "Pollination" means the use of colonies of bees to pollinate crops.

~~14.~~ 12. "Premise" means any place where bees, colonies, hive, equipment, or honey may be located including, but not limited to, apiaries.

~~15.~~ 13. "Quarantine" means the detaining of an apiary, equipment, or honey at its location after discovering the presence of a pest.

SECTION 18. AMENDATORY 2 O.S. 1991, Section 3-101, is amended to read as follows:

Section 3-101. A. Any agent of the State Board of Agriculture shall have authority to inspect or take samples on any premise within this state, during regular business hours to investigate and ascertain whether or not any pest of bees exists. When there are no effective controls available, the Board may issue an order to destroy any infected or infested bees or equipment or both ~~such bees and equipment pursuant to Section 12 of this act~~.

B. For the purposes of enforcement of the Oklahoma Apiary Act, the Board has the authority to enter any public or private premise during regular business hours to ascertain if the owner is subject to or in compliance with the provisions of the Oklahoma Apiary Act or any rule ~~promulgated thereto~~.

C. The Board is authorized to promulgate ~~such~~ rules ~~and regulations~~ for the control of bee pests as ~~are~~ authorized by the Oklahoma Apiary Act. Any rules ~~and regulations~~ shall be promulgated pursuant to the ~~Oklahoma~~ Administrative Procedures Act.

D. The Board shall have the authority to:

1. ~~issue~~ Issue, renew, deny, modify, suspend, and revoke any registration issued pursuant to the provisions of the Oklahoma Apiary Act;

2. ~~issue~~ Issue inspection certificates to any person intending to transport any bees or equipment out of the state;

3. ~~issue~~ Issue entry permits to any person transporting bees or equipment into this state; and

4. ~~issue~~ Issue health certificates to any person shipping any queens or package bees intrastate~~;~~

~~5. enter upon any public or private property for purpose of inspecting and investigation compliance with the Oklahoma Apiary Act;~~

~~6. employ or designate personnel to conduct investigations and inspections, to make reports of such investigations and inspections;~~

~~7. establish and enforce administrative penalties pursuant to Section 11-1 of Title 2 of the Oklahoma Statutes; and~~

~~8. request the Attorney General of this state or any district attorney to institute criminal proceedings for a violation of the Oklahoma Apiary Act~~.

SECTION 19. AMENDATORY 2 O.S. 1991, Section 3-103, is amended to read as follows:

Section 3-103. Upon notification by the State Board of Agriculture, pursuant to ~~Section 12 of~~ this ~~act~~ subarticle, the owner of any apiary, bee equipment, or premise that is infected or infested by a bee pest shall initiate a control measure as determined by the Board within ten (10) days after verification by the Board that a pest exists. All of the infected or infested apiary or premise shall remain under quarantine until it is inspected by the Board and certified that the potential of spreading the pest no longer exists. When there are no effective control measures available or the owner fails to initiate control, an order to destroy the bees and equipment possessing the pest may be issued by the Board ~~pursuant to Section 12 of this act~~ to prevent the spread of the pest.

SECTION 20. AMENDATORY 2 O.S. 1991, Section 3-106, is amended to read as follows:

Section 3-106. A. Any queen producer or retailer who ships queens or package bees into the state is required to be registered annually by March 15 of each year with the State Board of Agriculture. A registration form shall be provided by the Board and a fee of Five Dollars ($5.00) shall be charged for ~~such~~ the registration.

B. Any package containing a queen or bees which are shipped intrastate or shipped into the state shall be accompanied with a copy of a health certificate issued by the state of origin. Any person engaged in the rearing of queens or package bees for sale shall have ~~his~~ the apiary or apiaries inspected by the Board before

they shall be certified free of bee pests. Honey or honey products used in shipping cages for the transport of queens or package bees shall be boiled for at least thirty (30) minutes.

C. Upon the discovery of any pest, an apiary shall be quarantined ~~pursuant to Section 12 of this act~~ and no further sale or shipment of queens or package bees shall be permitted until the pests within the apiary are satisfactorily controlled as determined by the Board. Removal of the quarantine order shall be issued by the Board.

D. ~~In addition, the~~ The Board shall require all out-of-state producers of queens or package bees who ship queens or package bees into Oklahoma to provide the purchaser with a copy of the health certificate issued from the state of origin. All shippers are required to provide the Board with the names and addresses of persons who receive shipments during the year upon request by the Board.

SECTION 21. AMENDATORY 2 O.S. 1991, Section 3-107, is amended to read as follows:

Section 3-107. A. Bees, queens, package bees, or other used equipment shall not be shipped into the State of Oklahoma from any state which does not maintain by law an effective inspection program for the control of bee pests.

B. Each shipment of used equipment or bees other than queens or package bees shall bear an entry permit which may be issued by the State Board of Agriculture after the applicant has submitted a valid inspection certificate from the state of origin of ~~such~~ the bees or used equipment. The certificate shall state that ~~such~~ the bees~~,~~ or used equipment are apparently free from bee pests. A total fee of Ten Dollars ($10.00) shall be charged for reviewing the valid inspection certificate from the state of origin and issuing each entry permit.

SECTION 22. AMENDATORY 2 O.S. 1991, Section 3-113, as amended by Section 1, Chapter 290, O.S.L. 1992 (2 O.S. Supp. 1999, Section 3-113), is amended to read as follows:

Section 3-113. A. Migratory beekeepers who move colonies of bees into this state shall be required to register with the State Board of Agriculture annually, on a form provided by the Board, for all seasonal or permanent locations of their apiaries. The registrant shall provide the Board by March 15 of each year:

1. The legal description of the location where the bees are ~~and/or are to~~ or shall be located;

2. The exact direction of the location of the bees from the nearest town;

3. The location of the bees within a town; and

4. The name of the owner or manager of the property where the bees are ~~and/or are to~~ or shall be located.

B. A migratory beekeeper shall not locate an apiary closer than two (2) miles to an established apiary. ~~Provided any~~ Any resident of this state may establish an apiary on ~~his~~ their farm, acreage, or home lot which is adjacent to another apiary. An annual fee of Five Dollars ($5.00) shall be charged for the registration of each migratory beekeeper required to register pursuant to this section.

SECTION 23. AMENDATORY 2 O.S. 1991, Section 3-114, is amended to read as follows:

Section 3-114. 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 State Board of Agriculture for the strength of colonies and the presence of pests. The Board may or upon complaint shall investigate any ~~such~~ bee colony. Copies of the written contract, if one exists, shall be furnished to the Board upon request ~~by the Board~~.

SECTION 24. AMENDATORY 2 O.S. 1991, Section 3-116, is amended to read as follows:

Section 3-116. Any beekeeper intending to transport a bee colony or any equipment out of this state may request an inspection of ~~such~~ the colony be made by the State Board of Agriculture. After the inspection is completed, an inspection certificate shall be given to the beekeeper or caretaker of the colony. If the colony, equipment, or premise is apparently free of bee pests then the certificate shall so indicate. If a colony, equipment, or premise is found to contain a bee pest, ~~then~~ the certificate shall bear a notation stating the name of the pest present.

SECTION 25. AMENDATORY 2 O.S. 1991, Section 3-117, is amended to read as follows:

Section 3-117. A. 1. Any beekeeper who requests inspection of ~~his~~ an apiary pursuant to ~~the provisions of~~ Section 3-116 of this title, is subject to the following inspection fee schedule in paragraph 2 of this subsection. The fee shall be based on the total number of colonies in the possession of the beekeeper~~, the fee~~ and shall be deposited in the State Department of Agriculture Revolving Fund.

2. The following fees shall be charged at the time of inspection:

~~Inspection Fees~~

~~5 to 50 colonies of bees~~	~~$ 5.00~~
~~50 to 100 colonies of bees~~	~~$10.00~~
~~100 to 300 colonies of bees~~	~~$15.00~~
~~300 to 1000 colonies of bees~~	~~$25.00~~
~~over 1000 colonies of bees~~	~~$40.00~~

a. Five Dollars ($5.00) for 5 to 50 colonies of bees,

b. Ten Dollars ($10.00) for 51 to 100 colonies of bees,

c. Fifteen Dollars ($15.00) for 101 to 300 colonies of bees,

d. Twenty-five Dollars ($25.00) for 301 to 1,000 colonies of bees, and

e. Forty Dollars ($40.00) for over 1,000 colonies of bees.

3. Upon request, the State Board of Agriculture may take samples and perform laboratory diagnosis at a cost of Twenty-five Dollars ($25.00) for each diagnosis. The manner of sampling and method of diagnosis ~~will~~ shall be at the Board's discretion.

B. Inspections of the apiaries ~~as a result of a~~ upon request of a beekeeper~~, pursuant to the provisions of subsection A of this section,~~ shall be limited to availability of time and personnel. If the beekeeper has more than two (2) colonies, the colonies shall be inspected on a random basis.

SECTION 26. AMENDATORY 2 O.S. 1991, Section 3-121, is amended to read as follows:

Section 3-121. A. 1. It shall be unlawful for any person to refuse to permit an inspection provided for by the Oklahoma Apiary Act, or to hinder or interfere with, in any way, ~~such~~ the inspection or the person authorized to make ~~such~~ the inspection.

2. It shall be unlawful for any person renting a colony of bees to another to misrepresent the strength of ~~such~~ a colony.

3. Any person who fails to pay a registration fee required by the Oklahoma Apiary Act within thirty (30) days after March 15 of each year~~,~~ shall pay a late registration fee of Ten Dollars ($10.00). All inspection fees are due within thirty (30) days after samples are processed or the inspection is completed. Late payment of inspection fees or fees for sample analysis are subject to a penalty of ten percent (10%) of the amount due or Ten Dollars ($10.00), whichever is greater.

B. Any person who is convicted for a violation of any of the provisions of the Oklahoma Apiary Act shall be guilty of a misdemeanor and shall be punished by a fine of not less than One Hundred Dollars ($100.00) ~~or not~~ nor more than One Thousand Dollars ($1,000.00).

SECTION 27. AMENDATORY 2 O.S. 1991, Section 3-122, is amended to read as follows:

Section 3-122. A. Whenever the State Board of Agriculture 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 regulation promulgated thereto~~, or any order of the Board, it shall give written notice to the alleged violator specifying the cause of complaint. ~~Such~~ The 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~~ the order to the alleged violator and to ~~such~~ other persons ~~as shall~~ who 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~~ the 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~~ the 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 or to protect bees from any bee pest or disease which is infectious or contagious in its nature to bees, 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~~ the 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~~ the hearing, the Board shall continue ~~such~~ the order in effect, revoke it, or modify it~~; provided, that any~~. Any person aggrieved by ~~such~~ the order continued after the hearing provided in this subsection may appeal to the district court of the area affected within thirty (30) days. ~~Such~~ The appeal when docketed shall have priority over all cases pending on ~~said~~ the 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~~ the service shall be made ~~as~~ in ~~case of~~ the same manner as service of a summons or by publication in a civil action, ~~such~~ and proof ~~to~~ shall be filed in the office of the Board~~; or such service~~. Service may also be made by mailing a copy of the notice, order, or other instrument by registered mail directed to the person affected at ~~his~~ the 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~~ the hearings in the name of the Board at any time and place. ~~Such~~ The hearings shall be conducted in conformity with and records made ~~thereof~~ as provided in the Administrative Procedures Act.

SECTION 28. AMENDATORY Section 1, Chapter 204, O.S.L. 1994 (2 O.S. Supp. 1999, Section 3-220), as last amended by Section 1 of Enrolled Senate Bill No. 892 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 3-220. A. 1. The plants musk thistle (Carduus nutans L.), Scotch thistle (Onoprodum acanthium L.), and Canada thistle (Cirsium arvense) are ~~hereby~~ designated as noxious weeds. The Legislature finds that ~~such~~ 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 ~~thereon so often in each and~~ on the landowner's land every year as shall be sufficient to prevent ~~said~~ 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. 1. The boards of county commissioners of Adair, Craig, Cherokee, Delaware, Ottawa, Mayes, Roger Mills, McCurtain, Rogers, Sequoyah and Leflore Counties in which the musk, Scotch or Canada thistles are growing may cause such thistles within the county to be cut, mowed, sprayed or otherwise eradicated pursuant to the provisions of this subsection.~~

~~2. a. Upon written complaint or upon their own motion, the boards of county commissioners as specified by this subsection shall submit such written complaint or motion to the State Department of Agriculture for inspection and a determination specifying the degree of infestation of thistles upon a specific site outlined in the complaint or motion.~~

~~b. Upon receipt of a written complaint or a motion for an inspection and determination of the degree of infestation upon the specific site, the Department shall inspect such site. Based upon rules promulgated by the State Board of Agriculture pursuant to this section, the Department shall notify the board of county commissioners the results of such inspection, the degree of infestation of thistles and whether such thistles should be treated, controlled or eradicated.~~

~~3. Upon receipt of an inspection report by the Department that the infestation of thistles on the site is of a degree requiring eradication, the board of county commissioners shall provide for the thistle eradication in accordance with the following procedures:~~

~~a. at least ten (10) days' notice shall be given to the owner of the property by certified mail with return receipt requested at the address shown by the current year's tax rolls in the county treasurer's office before the board of county commissioners holds a hearing or takes action. However, if the property owner cannot be located as shown by the return receipt, notice may be given by publication one time not less than ten (10) days prior to any hearing or action by the board of county commissioners,~~

~~b. the owner of the property may give written consent to the board of county commissioners authorizing the cutting, mowing, spraying or other method of eradication of the thistles. By giving said written consent, the owner waives the right to a hearing by the county,~~

~~c. a hearing may be held by the board to determine whether:~~

~~(1) the defendant is the owner of the land, and~~

~~(2) the plant so designated on the land is a musk thistle, Scotch thistle or a Canada thistle,~~

~~(3) the infestation of the thistle requires eradication, and~~

~~(4) the plant has not been sufficiently eradicated to prevent the plant from going to seed,~~

~~d. upon a finding that the defendant is the owner of the property and the plant is a musk, Scotch or Canada thistle, the agents of the county are granted the right of entry on the property for the cutting, mowing, spraying or other method of eradication of the thistles and performance of the necessary duties as a governmental function of the county,~~

~~e. the board of county commissioners shall determine the actual cost of such cutting, mowing, spraying or other method of eradication and any other expenses as may be necessary in connection therewith, including the cost of notice and mailing. The county clerk shall forward by certified mail with return receipt requested to the property owner at the address specified in paragraph 1 of this subsection a statement of such actual cost and demanding payment. If the cutting, mowing, spraying or other method of eradication is done by the county, the cost to the property owner for said eradication shall not exceed the actual cost of the labor, maintenance, and equipment required. If the cutting, mowing, spraying or other method of eradication is done on a private contract basis, the contract shall be awarded to the lowest and best bidder, and~~

~~f. if payment is not made within thirty (30) days from the date of the mailing of the statement, the county clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located and the same shall be levied on the property and collected by the county treasurer as other taxes authorized by law. The cost and the interest thereon shall be a lien against the property from the date the cost is certified to the county treasurer, coequal with the lien of ad valorem taxes and all other taxes and special assessments, and the lien shall continue until the cost shall be fully paid. Upon receiving payment, if any, the county clerk shall forward to the county treasurer a notice of such payment and directing discharge of the lien.~~

~~C.~~ B. The ~~State~~ Board ~~of Agriculture~~ 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, ~~1999~~ 2000, and annually thereafter prior to the growing season of musk, Scotch, and Canada thistles, complete ~~a~~ an annual survey detailing the degree of infestation of ~~such~~ these

thistles across the state. The results of ~~such~~ these surveys shall be reported to Oklahoma State University; and

4. In all counties of this state, ~~publish a notice in~~ 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 ~~such~~ these thistles growing on any property owned by the landowner. The ~~notice~~ information shall be ~~published for at least two (2) consecutive weeks~~ provided at the beginning of the cycle of growth of the musk, Scotch, and Canada thistles and at ~~such~~ other times as ~~deemed~~ necessary ~~by the Department~~ to inform landowners of the provisions of this subsection. The ~~notice~~ 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 ~~State~~ Department ~~of Agriculture~~, 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 ~~such~~ these thistles.

~~D.~~ 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 ~~and proper~~ for the type of thistle and location of the property.

~~E. It shall be the duty of the county commissioners of each county with regards to county roads and highways, and the Department of Transportation with regards to state roads and highways, to remove any thistle infestation along the rights-of-way for the roads within the jurisdiction of each such county or Department.~~

~~F. 1. There is hereby created the Oklahoma Thistle Prevention, Control and Eradication Fund. The Oklahoma Thistle Prevention, Control and Eradication Fund shall be administered to control and eradicate musk, Scotch and Canada thistles.~~

~~2. The Oklahoma Thistle Prevention, Control and Eradication Fund shall consist of:~~

~~a. all monies received by the Department in the form of gifts, grants, reimbursements, appropriations, donations, industry contributions, federal funds, and such other monies specifically designated for thistle prevention, control and eradication, and~~

~~b. interest attributable to investment of money in the Oklahoma Thistle Control and Eradication Fund.~~

~~3. Monies in the Oklahoma Thistle Control and Eradication Fund shall only be expended for costs incurred by the State Department of Agriculture for the prevention, control and eradication of thistles including but not limited to the survey required by subsection C of this section.~~

SECTION 29. AMENDATORY Section 4, Chapter 157, O.S.L. 1999 (2 O.S. Supp. 1999, Section 5-3.4), is amended to read as follows:

Section 5-3.4 A. The State Department of Agriculture 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 State Department of Agriculture for grant or loan funds to develop or implement research or marketing and utilization or farm diversification plans, 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 Commissioner 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 will 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 must contain the potential to create additional income for the farm unit, and

j. proposals must provide for new and innovative plans for marketing the product; 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, and

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.

E. 1. Any information submitted to or compiled by the State Department of Agriculture, 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.

ARTICLE 6. LIVESTOCK DISEASES

A. ~~Veterinary Division of State Department of Agriculture~~ Livestock and Poultry Disease Control.

SECTION 30. AMENDATORY 2 O.S. 1991, Section 6-1, is amended to read as follows:

Section 6-1. ~~Except as otherwise provided herein, and except as may be directed by the State Board of Agriculture, the powers, duties and functions vested by this Article in the State Board of Agriculture shall be exercised and performed through a Division of~~

~~the State Department of Agriculture, to be known as the Veterinary Division of the State Department of Agriculture, which is hereby established. Such Division shall be under the immediate supervision of a Director, who~~ The State Veterinarian shall be the holder of a current license to practice veterinary medicine in ~~the State of~~ Oklahoma, and ~~who~~ shall be appointed by the State Board ~~and whose~~ of Agriculture. The Board shall fix the compensation and duties~~, other than those specified in this Article, shall be fixed by the Board. The Director of such Division shall also be known as~~ of the State Veterinarian.

SECTION 31. AMENDATORY 2 O.S. 1991, Section 6-2, is amended to read as follows:

Section 6-2. The State Board of Agriculture shall be the official livestock and poultry disease control agency of the State of Oklahoma~~, and~~. The Board shall have authority to ~~issue~~ promulgate and enforce rules ~~and regulations~~ governing the handling, sale, and use of vaccines, ~~antigen~~ antigens, and other biological products used in connection with livestock or poultry.

SECTION 32. AMENDATORY 2 O.S. 1991, Section 6-3, is amended to read as follows:

Section 6-3. ~~Whenever the~~ A. The State ~~Board of Agriculture determines~~ Veterinarian may determine that any livestock is infected with~~,~~ or has been exposed to~~, rinder-pest, foot and mouth disease, Glanders maladie du coit, contagious pleuropneumonia, tuberculosis or~~ any disease ~~which might constitute~~ posing a threat ~~or hazard~~ to the livestock population of the state~~, it~~.

B. The State Veterinarian may cause ~~such~~ the livestock to be destroyed or disposed of in ~~such~~ a manner ~~as will, in its judgment, best~~ designed to protect the health of other livestock~~, and shall have any such~~. Destroyed or disposed of livestock shall be appraised by ~~three disinterested persons, not connected with the State Department of Agriculture~~ an individual selected by the State Veterinarian and the owner of the livestock. The owner of the livestock ~~so~~ destroyed or disposed of shall be entitled to be paid ~~one-half of such appraised value~~ the amount of indemnity approved by the State Board of Agriculture from ~~any~~ designated funds ~~available for such purpose, if one-half thereof can or will be paid by the United States Department of Agriculture or any agency or division thereof~~.

SECTION 33. AMENDATORY 2 O.S. 1991, Section 6-4, as amended by Section 3, Chapter 138, O.S.L. 1996 (2 O.S. Supp. 1999, Section 6-4), is amended to read as follows:

Section 6-4. ~~Whenever~~ A. If the State ~~Board of Agriculture~~ Veterinarian determines that any livestock is infected with~~,~~ or has been exposed to~~,~~ any contagious or infectious disease, the owner or person in ~~possession~~ control of the livestock may be directed by the ~~Board~~ State Veterinarian~~,~~ or ~~by~~ any authorized agent thereof, ~~to cause the livestock, or~~ to disinfect any livestock or any place ~~where~~ the livestock has been~~, to be disinfected~~ in ~~such~~ a specific time and manner ~~as may be directed by the Board or authorized agent;~~

~~and if~~. If the livestock or place is not ~~so~~ disinfected~~,~~ within the time specified ~~by the Board or authorized agent~~, ~~then~~ the ~~Board~~ State Veterinarian or authorized agent shall have the ~~right and~~ authority to have the livestock or place disinfected, ~~and the~~. The owner or person in ~~possession~~ control of the livestock shall be obligated to pay to the ~~Board~~ State Department of Agriculture all expenses incurred in having the livestock or place disinfected~~, and the~~. The State Board of Agriculture shall have the authority to place a lien upon the livestock or place until ~~such~~ the expense is paid~~, by filing notice thereof with the county clerk of the county in which the livestock or place is located; and the~~.

B. The livestock or place shall not be removed or ~~disposed~~ change ownership without permission of ~~until~~ the ~~expense is paid~~ State Veterinarian. When the expense is paid, it shall be deposited in the State Department of Agriculture ~~Trust~~ Revolving Fund.

C. The term "place", as used in this section, shall include but not be limited to any ~~building, lot, enclosure,~~ premises~~, railroad car, truck~~ or ~~other vehicle~~ mode of transportation.

~~B. Garbage Feeding to Swine~~

SECTION 34. AMENDATORY 2 O.S. 1991, Section 6-21, is amended to read as follows:

Section 6-21. For the purpose of this subarticle, ~~and as used therein, the following words shall have the meanings indicated:~~

~~(a)~~ "~~Garbage~~ 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 ~~thereof~~.

~~(b) "Person" means the state, any municipality, political subdivision, institution, public or private corporation, individual, partnership, or other entity.~~

SECTION 35. AMENDATORY 2 O.S. 1991, Section 6-22, is amended to read as follows:

Section 6-22. A. No person shall feed garbage to swine unless a permit ~~therefor shall have~~ has been obtained from the State ~~Board of Agriculture~~ Veterinarian. Applications for ~~such~~ permits shall be on a form prescribed by the ~~Board, and each such~~ State Veterinarian. Each permit shall be renewed annually and shall expire on ~~the 30th day of June next following its issuance~~ a date specified by the Board.

B. The ~~Board~~ State Veterinarian may refuse to ~~issue~~ renew or may suspend any ~~such~~ permit, and the Board may revoke any permit that has been issued, if ~~it determines that~~ the applicant ~~for the permit~~ or the holder of the permit has violated or failed to comply with any of the provisions of this subarticle or any rule ~~or regulation~~ of the Board~~; provided, that no~~.

C. No permit shall be issued for garbage feeding under the provisions of this subarticle, or be effective, in any county, municipality or other place where local laws or regulations prohibit garbage feeding.

SECTION 36. AMENDATORY 2 O.S. 1991, Section 6-27, is amended to read as follows:

Section 6-27. The provisions of this subarticle shall not apply to ~~any~~:

1. Any individual who feeds only ~~his own~~ household garbage of the individual to ~~his own~~ the swine~~, and shall not apply to any~~ of the individual; or

2. Any institution which feeds only its own garbage to swine which are raised for the institution's own use.

~~E. Bang's Disease (Brucellosis)~~

SECTION 37. AMENDATORY 2 O.S. 1991, Section 6-91, is amended to read as follows:

Section 6-91. A program for the control ~~of,~~ and ~~to assist in the~~ eradication of~~, Bang's disease~~ brucellosis among livestock of the State of Oklahoma shall be ~~formulated and~~ maintained by the State Board of Agriculture. ~~Such~~ The program shall be ~~based upon an approved plan~~ composed of a plan or combination of plans adopted or recommended by the United States ~~Livestock Sanitary Association~~ Department of Agriculture and approved by the ~~United States Agricultural Research Service and the State~~ Board ~~of Agriculture~~.

SECTION 38. AMENDATORY 2 O.S. 1991, Section 6-92, as amended by Section 4, Chapter 138, O.S.L. 1996 (2 O.S. Supp. 1999, Section 6-92), is amended to read as follows:

Section 6-92. 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 ~~the joint State-Federal Brucellosis Laboratory, or other~~ a laboratory approved for ~~such test~~ brucellosis testing by the State Board of Agriculture and the United States Department of Agriculture.

B. The blood sample for ~~such test~~ 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 ~~Board~~ State Veterinarian to conduct ~~such~~ brucellosis tests at ~~their own~~ approved livestock market laboratories.

C. All blood tests ~~will~~ shall be confirmed by ~~duplicate~~ samples tested at the ~~joint State-Federal Brucellosis Laboratory~~ laboratory approved for official testing by the Board and the United States Department of Agriculture.

SECTION 39. AMENDATORY 2 O.S. 1991, Section 6-93, is amended to read as follows:

Section 6-93. A. Whenever any blood sample is drawn for the purpose of testing for brucellosis, the person drawing the blood sample shall ~~fasten a~~ ensure the fastening of an official metal tag, approved by the State Veterinarian and imprinted with a distinctive number, to the right ear of the animal from which blood is drawn~~; however, if~~. If an official ear tag is already fastened to the right ear, the number imprinted ~~thereon will~~ shall be recorded instead of inserting a new tag~~, and~~.

B. The person shall submit with the blood sample a written report to the State ~~Board of Agriculture~~ Veterinarian. The report shall be signed by the person drawing the sample and shall be on a form prescribed by the ~~Board~~ State Veterinarian. The report shall show the number on the tag ~~that was~~ fastened to the tested animal's ear and descriptive markings of the animal, or herd tattoo, ~~name and registration number~~ if the tested animal ~~was~~ is a registered animal~~; provided, it~~.

C. It shall not be necessary to ear tag any registered animal if the herd tattoo~~, name and registration number~~ of ~~such~~ each animal is shown on the report ~~required by this section~~.

D. The removal of the identifying metal ear tag from the animal's ear without prior authorization from the ~~Board of Agriculture~~ State Veterinarian shall be a ~~misdemeanor~~ violation of the Oklahoma Agricultural Code.

E. Each packing plant in this state shall collect and identify a blood sample with all identification tags from each bovine animal showing the presence of the first pair of central incisors.

SECTION 40. AMENDATORY 2 O.S. 1991, Section 6-94, as last amended by Section 85, Chapter 133, O.S.L. 1997 (2 O.S. Supp. 1999, Section 6-94), is amended to read as follows:

Section 6-94. A. I~~f any animal has given a positive reaction to the official brucellosis test, and the reaction was not caused by official vaccination, the State Board of Agriculture shall declare the animal to be infected with brucellosis and shall immediately notify the person who drew the blood sample for the test, who shall place a permanent brand on the tailhead of each affected animal with the letter "B", which shall be not less than three (3) inches in height, and affix a metal tag, inscribed "Brucellosis Reactor", to the left ear of the animal.~~

~~B. Animals that are part of a known infected herd shall be treated as exposed. Any such animal destined for feeding or slaughter purposes shall be permanently branded on the tailhead with the letter "S". The brand shall be not less than two (2) inches in height and width and shall be affixed by the person who drew the blood sample by which the reactor was detected. The branding fee shall be paid by the seller of the animal. Each packing plant in this state shall collect and identify a blood sample with all~~

~~identification tags, as provided by the Board, from each bovine animal that shows the presence of first central incisors.~~

~~C.~~ 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.

~~D.~~ B. The removal of any permanent mark or brand, including metal ear tags, from any animal with a reportable disease or those classified as diseased in a herd being depopulated, without prior authorization from the State ~~Board of Agriculture~~ Veterinarian, shall be deemed a felony.

SECTION 41. AMENDATORY 2 O.S. 1991, Section 6-95, as amended by Section 6, Chapter 138, O.S.L. 1996 (2 O.S. Supp. 1999, Section 6-95), is amended to read as follows:

Section 6-95. The ~~Abortus Brucella Ring~~ 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 ~~Agricultural Research Service~~ 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 ~~Board~~ State Veterinarian shall have the authority to conduct an official test of the herd in order to identify the reactors.

SECTION 42. AMENDATORY 2 O.S. 1991, Section 6-96, is amended to read as follows:

Section 6-96. 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 ~~State~~ Board ~~of Agriculture, and such~~. The inoculation shall be made between ages specified by the Board ~~regulations~~. Animals ~~so~~ vaccinated shall be properly identified with a tattoo and individual identification as prescribed by the ~~State~~ Board ~~of Agriculture~~.

SECTION 43. AMENDATORY 2 O.S. 1991, Section 6-97, is amended to read as follows:

Section 6-97. 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 ~~Board of Agriculture~~ Veterinarian.

SECTION 44. AMENDATORY 2 O.S. 1991, Section 6-99, is amended to read as follows:

Section 6-99. All livestock declared to be infected with ~~Bang's disease~~ brucellosis ~~under the provisions of this subarticle~~ shall be immediately quarantined ~~on the premises where such livestock is then~~

~~located~~ and ~~may~~ shall be disposed of only ~~for immediate slaughter or~~ as ~~otherwise~~ prescribed in the approved plan. ~~Disposition of, or~~ Prior to movement or change of ownership, plans for disposition of~~,~~ infected animals shall be made and reported ~~by the person initiating the test~~ to the State ~~Board of Agriculture in writing within thirty (30) days after date of test~~ Veterinarian.

SECTION 45. AMENDATORY 2 O.S. 1991, Section 6-100, is amended to read as follows:

Section 6-100. A. The State of Oklahoma is hereby declared a brucellosis eradication area. The State Board of Agriculture shall institute a program of eradication ~~in each county~~ as prescribed in the approved plan as the funds become available in order for the state to qualify as a certified free area.

B. Each owner of livestock ~~in the county, within sixty (60) days after notice is given that a compulsory plan has been placed in operation,~~ shall comply with the requirements of the plan. ~~An employee~~ A licensed, accredited veterinarian or authorized agent of the Board ~~of Agriculture~~ shall perform all tests on ~~cattle~~ livestock for brucellosis. The owner or ~~caretaker~~ person in control of the ~~cattle~~ livestock shall render ~~such~~ assistance in restraining the animals as the State Veterinarian or ~~his~~ a representative of the State Veterinarian deems necessary. Any owner or caretaker who neglects or refuses to present the ~~cattle~~ 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 ~~his~~ representative authorized to test the ~~cattle~~ livestock may file a complaint with the district attorney who shall immediately notify the offending party either by certified mail, personal service, posting ~~said~~ a notice on the premises, or publication that ~~said~~ the person will have an additional ten (10) days to comply with ~~said~~ the requirements. If the party fails to ~~so~~ comply, the sheriff of the county ~~may~~ shall gather ~~said cattle~~ the livestock for testing. The owner shall pay all fees and costs~~,~~ incurred in gathering ~~said cattle,~~ the livestock into the county general fund, to be reappropriated to the county sheriff's office.

D. ~~Whenever participation in the plan is made compulsory, an~~ An indemnity payment in an amount approved by the United States ~~Agricultural Research Service~~ Department of Agriculture and the Board ~~of Agriculture, upon proof of slaughter,~~ shall be made on each reactor ~~within the compulsory area~~ upon proof of slaughter. The Board ~~of Agriculture~~ shall pay any owner of ~~nonregistered beef~~ cattle destroyed because of brucellosis an indemnity of not more than Fifty Dollars ($50.00) for each ~~said~~ 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. ~~Said~~ The indemnity payments shall be made from funds made available ~~for said purpose~~ by the United States ~~Agricultural Research Service~~ Department of Agriculture or the Board ~~of Agriculture,~~ within the limits of availability. ~~Said~~ The state indemnity shall not be paid unless the owner of ~~said~~ the cattle is

in compliance with ~~regulations~~ rules of the Board pertaining to an approved plan.

SECTION 46. AMENDATORY 2 O.S. 1991, Section 6-101, is amended to read as follows:

Section 6-101. The certification of ~~Bang's free~~ brucellosis-free herds and ~~Bang's free~~ brucellosis-free counties or areas shall be made as prescribed by the United States ~~Livestock Sanitary Association~~ Department of Agriculture and approved by the ~~United States Agricultural Research Service and the~~ State ~~Board of Agriculture~~ Veterinarian.

SECTION 47. AMENDATORY 2 O.S. 1991, Section 6-102, is amended to read as follows:

Section 6-102. A. It shall be unlawful for any person ~~or persons~~, company, firm, corporation, livestock market, concentration yard, or livestock auction, to sell ~~bovine~~ animals or to remove ~~bovine~~ animals from markets unless the animals are in compliance with ~~regulations~~ rules promulgated by the State Board of Agriculture.

~~Markets must announce to all buyers whether or not an offering is the entire consignment and whether or not testing is to be or has been conducted, on all eligible cattle in the consignment.~~

B. Animals that are sold ~~before test and guaranteed to be brucellosis free~~ 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 ~~such~~ compliance shall be on a form approved by the State ~~Board of Agriculture~~ Veterinarian.

~~F. Animal Quarantine~~

SECTION 48. AMENDATORY 2 O.S. 1991, Section 6-124, as amended by Section 3, Chapter 296, O.S.L. 1992 (2 O.S. Supp. 1999, Section 6-124), is amended to read as follows:

Section 6-124. A. Whenever it is determined by the State Board of Agriculture~~,~~ or ~~by~~ 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 ~~thereto by reason of the~~ 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 ~~boundaries of the~~ area and the conditions of the quarantine~~, if any~~. Notice of ~~such~~ the quarantine order shall be given by one of the following methods ~~or a combination thereof~~:

~~(a) in~~ 1. In person by an authorized agent of the Board; or

~~(b) by~~ 2. By certified mail; or

~~(c) by~~ 3. By publication in a legal newspaper ~~printed~~ of general circulation in one or more counties in which ~~such~~ the areas are situated; or

~~(d) by~~ 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 ~~his~~ an authorized agent.

C. The issuance of a quarantine may be waived if the ~~State~~ Board ~~of Agriculture~~ or the State Veterinarian enters into a formal cooperative agreement with the affected party that will control and eradicate the disease condition.

SECTION 49. AMENDATORY 2 O.S. 1991, Section 6-125, as last amended by Section 86, Chapter 133, O.S.L. 1997 (2 O.S. Supp. 1999, Section 6-125), is amended to read as follows:

Section 6-125. It shall be unlawful and a misdemeanor for any person to remove, ~~or to~~ change the location of, or to bring into or to take out of any place or area that has been quarantined, any livestock ~~of an aggregate value of One Thousand Dollars ($1,000.00) or less, which are~~ covered by the order of quarantine~~,~~ or ~~otherwise~~ to violate any of the conditions of ~~such order of~~ the quarantine. If the aggregate value of ~~such~~ the quarantined livestock is in excess of One Thousand Dollars ($1,000.00), then the person shall, upon conviction, be guilty of a felony.

~~F-1. Foreign Animal Diseases Act~~

SECTION 50. AMENDATORY Section 2, Chapter 75, O.S.L. 1996 (2 O.S. Supp. 1999, Section 6-132), is amended to read as follows:

Section 6-132. As used in the Foreign Animal Diseases Act~~:~~

~~1. "Person" means any individual, firm, partnership, association, organization or corporation;~~

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

~~3.~~ "~~Foreign Animal Disease~~ foreign animal disease" means any ~~disease~~ condition of livestock or ~~animal which is designated as~~ animals meeting the criteria for a foreign animal disease by the United States Department of Agriculture~~, Animal and Plant Health Inspection Service;~~

~~4. "Livestock" and "animals" shall be deemed to include any cattle, bison, equidae, sheep, goats, swine, chickens, turkeys, domesticated fowl, and any animal, ratite or psittacine in captivity; and~~

~~5. "Authorized agent" means the State Veterinarian or any person designated as an authorized agent of the State Board of~~

~~Agriculture, pursuant to Section 1-3 of Title 2 of the Oklahoma Statutes~~.

SECTION 51. AMENDATORY Section 4, Chapter 75, O.S.L. 1996 (2 O.S. Supp. 1999, Section 6-134), is amended to read as follows:

Section 6-134. If the State Board of Agriculture or any authorized agent thereof ~~shall determine that~~ determines any animal or livestock in any area~~, such as a county, township or similar political or geographical boundary,~~ is or might be infected with any foreign animal disease, a quarantine may be declared by the Board ~~or any authorized agent~~. ~~Such~~ The quarantine shall show the ~~boundaries of the~~ area ~~or place~~ quarantined and the conditions of the quarantine~~, if any; and notice~~. Notice of ~~such~~ the quarantine shall be given in person by an authorized agent, by certified mail, by a sign or signs posted in ~~such place, places~~ or around the quarantined area, or by publication in a legal newspaper ~~printed~~ of general circulation in one or more counties in which ~~such place, places or~~ the area may be situated~~, or by both such posting and publication~~. It shall be illegal to remove any sign or notice posted to a quarantined area or premises ~~and removal shall be only~~ unless removed by the State Veterinarian or an authorized agent.

SECTION 52. AMENDATORY Section 5, Chapter 75, O.S.L. 1996 (2 O.S. Supp. 1999, Section 6-135), is amended to read as follows:

Section 6-135. No biological ~~product~~ products, including but not limited to antigens, used to immunize, test, or treat livestock or ~~any other~~ 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. ~~Such biological~~ Biological products shall be administered or used only by those persons approved by the State Veterinarian.

G. Tuberculosis

SECTION 53. AMENDATORY 2 O.S. 1991, Section 6-141, as amended by Section 7, Chapter 138, O.S.L. 1996 (2 O.S. Supp. 1999, Section 6-141), is amended to read as follows:

Section 6-141. All ~~cattle~~ 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", ~~not less than~~ at least two (2) inches in width and ~~not less than~~ three (3) inches in length, ~~and~~ have a designated metal tag affixed to the left ear ~~a designated metal tag~~, and shall be ~~forever~~ considered ~~as~~ affected with tuberculosis. The owner or owners of ~~such~~ tuberculosis-affected ~~cattle~~ animals shall permit any authorized agent or representative of the State Board of Agriculture or the United States ~~Animal Disease Eradication Branch~~ Department of Agriculture or ~~Accredited Veterinarian~~ accredited veterinarian to brand and tag all ~~such~~ affected animals ~~for identification~~.

SECTION 54. AMENDATORY 2 O.S. 1991, Section 6-142, is amended to read as follows:

Section 6-142. ~~Any~~ It shall be unlawful for any person~~, or the members of any firm or copartnership, or the active managing officers of any corporation,~~ or ~~any of~~ the agents or employees of any ~~such persons, who~~ person to knowingly and intentionally ~~sells~~ sell, ~~or offers~~ offer for sale, ~~or assists~~ assist in the sale or trade, or ~~who in any manner disposes~~ dispose or ~~offers~~ offer to dispose of ~~in the State of Oklahoma,~~ any animal ~~of the bovine specie, covered by the provisions of the preceding section, belonging to or in the possession of such persons, which animal is~~ affected with tuberculosis~~, shall be guilty of a misdemeanor~~.

SECTION 55. AMENDATORY 2 O.S. 1991, Section 6-143, is amended to read as follows:

Section 6-143. The State Veterinarian or any ~~duly~~ accredited veterinarian directed by the State Veterinarian, as defined by the United States ~~Animal Disease Eradication Branch~~ Department of Agriculture, ~~working under his direction,~~ upon reliable information that tuberculosis exists in any ~~cattle~~ animal in the state, may cause the tuberculin test to be applied to ~~such cattle~~ the herd or group of animals. Should the owner or owners refuse or neglect to comply with the instructions of the examining veterinarian, ~~then~~ the State Veterinarian or ~~his duly~~ the authorized ~~representative or any veterinary inspector of the Animal Disease Eradication Branch~~ agent of the State Veterinarian shall quarantine ~~said~~ the animals, ~~which~~ and the quarantine shall prohibit the movement of any ~~cattle or hogs~~ animal or ~~any~~ animal products ~~thereof~~ from ~~said~~ the premises.

SECTION 56. AMENDATORY 2 O.S. 1991, Section 6-145, is amended to read as follows:

Section 6-145. ~~When a county is cooperating with the State Board of Agriculture and the Animal Disease Eradication Branch of the United States Department of Agriculture in the eradication of tuberculosis on the county area plan, such fact shall be set forth in a proclamation by the President of the State Board of Agriculture, and cattle may~~ Animals shall be moved or allowed to move into ~~such county~~ the State of Oklahoma only ~~under the provisions of such proclamation and regulations as may be~~ in accordance with rules promulgated by the State Board of Agriculture and regulations of the United States Department of Agriculture. ~~After such proclamation has been issued, it~~ It shall be the duty of each owner or ~~caretaker~~ person in control of ~~cattle~~ animals in ~~such area~~ this state to present all ~~cattle in his possession~~ animals for testing when notified ~~to do so~~ by the State Veterinarian or ~~his duly~~ the authorized ~~representative~~ agent of the State Veterinarian. The owner or ~~caretaker~~ person in control of the ~~cattle~~ animals shall render ~~such~~ any assistance in restraining the animals ~~as~~ required by the State Veterinarian or ~~his representative deems necessary~~ the authorized agent of the State Veterinarian. If the owner or ~~caretaker~~ person in control neglects or refuses to present the ~~cattle~~ animals for testing or ~~refuses or neglects to~~ adequately assist in restraining them, the State Veterinarian or ~~his~~

~~representative~~ the authorized ~~to test the cattle~~ agent of the State Veterinarian may call upon the sheriff of the county for any necessary assistance~~, and such~~. The sheriff shall be paid for ~~such~~ the work the same fees as are ~~now provided to be~~ collected for the execution of a writ of attachment. Unless ~~such~~ the fees are paid immediately by the owner or person in control, the sheriff may seize ~~so~~ as many of the ~~cattle~~ animals as are necessary for the payment of ~~his~~ the fees, and after ten (10) days shall sell ~~them for such~~ the animals to recover the fees and costs accrued ~~by him~~.

SECTION 57. AMENDATORY 2 O.S. 1991, Section 6-146, is amended to read as follows:

Section 6-146. Retests shall be ~~made~~ conducted by the State ~~Board of Agriculture and the Animal Disease Eradication Branch of the United States Department of Agriculture~~ Veterinarian or authorized agent in all ~~counties~~ herds in which initial tests have ~~been made under the provisions of the two preceding sections~~ disclosed animals affected with tuberculosis at ~~such~~ those intervals ~~as~~ prescribed by the State Board of Agriculture ~~may deem necessary~~ for the protection of the work already done and to preserve the standing of ~~such counties as accredited or area tested counties~~ this state under the ~~rules and~~ regulations of the ~~Animal Disease Eradication Branch of the~~ United States Department of Agriculture.

SECTION 58. AMENDATORY 2 O.S. 1991, Section 6-147, is amended to read as follows:

Section 6-147. All ~~cattle which have been condemned~~ animals classified as reactors for tuberculosis shall be slaughtered within ~~a reasonable time~~ fifteen (15) days following the date of ~~such condemnation~~ classification.

SECTION 59. AMENDATORY 2 O.S. 1991, Section 6-149, is amended to read as follows:

Section 6-149. No payment of indemnity from state funds shall be made for any ~~cattle~~ animals found to be tuberculous in the following cases: ~~(a)~~

1. Unless slaughtered within ~~a reasonable time~~ fifteen (15) days after the date of ~~condemnation. (b)~~ classification as reactors;

2. After any test, when the premises ~~found to contain~~ containing tuberculous ~~cattle~~ animals have not been cleaned and disinfected in accordance with the rules ~~and regulations~~ of the State Board of Agriculture and the ~~Animal Disease Eradication Branch of the~~ United States Department of Agriculture~~. (c)~~;

3. For any ~~cattle~~ animals belonging to a state or federal supported institution~~. (d)~~;

4. For any ~~cattle which~~ animals the owner or claimant knew to be diseased at the time ~~they came into his possession. (e)~~ obtained;

5. For any ~~cattle~~ animals unless the entire herd associated with them has been tested~~. (f)~~;

6. For any ~~cattle~~ animals which have not been within this state ~~for a period of~~ at least one (1) year prior to being ~~found affected with tuberculosis~~ classified as reactors for tuberculosis~~. (g)~~; and

7. For any ~~cattle which have been~~ animals moved intrastate or interstate in violation of the laws of this or any other state~~,~~ or any of the rules ~~and regulations~~ of the ~~State~~ Board ~~of Agriculture~~ or ~~of~~ the ~~Animal Disease Eradication Branch of the~~ United States Department of Agriculture.

H. ~~Health~~ Certificates of Veterinary Inspection

SECTION 60. AMENDATORY 2 O.S. 1991, Section 6-150, is amended to read as follows:

Section 6-150. ~~For the purposes of~~ As used in this ~~subarticle and as used herein, unless the context indicates otherwise~~ Article:

~~(a) "Livestock" shall mean any animal or bird to be imported into the State of Oklahoma for any purpose~~ 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;

~~(b)~~ 2. "Approved veterinarian" ~~shall mean~~ means a graduate veterinarian licensed and accredited by the state of origin and the ~~Animal Health Division, Agricultural Research Service,~~ United States Department of Agriculture, or an authorized veterinary inspector of the United States ~~Animal Health Division~~ Department of Agriculture;

~~(c)~~ 3. "Livestock" means any animal or bird to be imported into the State of Oklahoma for any purpose;

4. "Official health certificate" ~~shall mean~~ or "certificate of veterinary inspection" means a legible ~~certificate made~~ declaration on an official form from the state of origin or from the ~~Animal Health Division, Agricultural Research Service,~~ United States Department of Agriculture, issued by an approved veterinarian and approved by the chief livestock ~~sanitary~~ health official of the state of origin;

~~The~~ 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~~ and/or tags to positively identify ~~said~~ the livestock~~, and shall also contain positive identification of the motor vehicle or common carrier used in the transportation of the livestock covered by~~ 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 ~~must be approved by the chief livestock sanitary official of the state of origin and~~ shall be forwarded to the Oklahoma State Veterinarian, Oklahoma City, Oklahoma~~.~~; and

~~(d) A "permit" shall mean~~ 5. "Permit" means written permission by the State Board ~~or its authorized agent~~ 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. ~~A permit shall be void fifteen (15) days after the date of issuance.~~

~~(e) "Approved market" shall mean any livestock market, auction, or stockyard which operates under the immediate supervision of the Agricultural Research Service, United States Department of Agriculture, or which has executed a written cooperative agreement, agreeing to abide by the Interstate Brucellosis Regulations, CFR Amendment 56-40 and the Oklahoma Agricultural Code, 2 O.S.1961, Sections 6-101 et seq., and the rules and regulations promulgated thereunder.~~

~~(f) "Board" shall mean the Oklahoma State Board of Agriculture.~~

SECTION 61. AMENDATORY 2 O.S. 1991, Section 6-151, is amended to read as follows:

Section 6-151. ~~(a)~~ A. 1. It shall be unlawful to ship ~~or~~, transport, or cause to be shipped or transported ~~in any manner~~ any livestock into the State of Oklahoma, unless ~~said livestock are~~ accompanied by an official health certificate ~~or~~, permit, or both, which shall be in the possession of the driver of the vehicle or person in charge of the livestock~~; provided, that an~~.

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)~~ 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 ~~such~~ entry, transportation, or movement is ~~first~~ obtained from the State Board of Agriculture or its authorized agent~~; provided, that a~~.

2. A written permit shall not be required for diseased animals which are approved for interstate shipment under specified restrictions by the ~~Animal Health Division, Agricultural Research Service,~~ United States Department of Agriculture.

SECTION 62. AMENDATORY 2 O.S. 1991, Section 6-152, is amended to read as follows:

Section 6-152. ~~(a)~~ A. 1. Any authorized agent of the State Board of Agriculture, or any law enforcement officer of the State of Oklahoma or any subdivision ~~thereof~~, shall have the ~~express~~ authority to stop the shipment or movement of any livestock within this state, and ~~said~~ the agent or officer may hold ~~said~~ the livestock under quarantine at the owner's risk and expense for observation, tests, vaccination, dipping, treatment, ~~reinspection~~ inspection, or for any other purposes ~~that may be deemed necessary~~.

2. The agent or officer may order any and all livestock ~~so held to be~~ unloaded or handled in any ~~necessary~~ manner when ~~said~~ the agent or officer ~~deems~~ finds it necessary to effect a more complete and thorough inspection or examination.

3. If ~~said~~ 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 ~~said~~ the livestock and order them slaughtered immediately. The agent, ~~or~~ 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 ~~paragraph~~ subarticle.

~~(b)~~ B. No livestock held under quarantine ~~pursuant to the paragraph (a)~~ shall be released from ~~said~~ quarantine until a written release, signed by an authorized agent ~~of the Board~~ has been executed.

SECTION 63. AMENDATORY 2 O.S. 1991, Section 6-153, is amended to read as follows:

Section 6-153. ~~(a)~~ 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, ~~unless said~~ all livestock shall be accompanied by a health certificate, ~~the same shall be accompanied by~~ a bill of sale, or acceptable proof of ownership of the livestock~~, which~~. 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 ~~and all purposes~~ purpose.

~~(b)~~ B. The importation requirements ~~as provided~~ in this subarticle are applicable to any livestock shipped into or transported within this state for exhibition purposes.

J. Oklahoma Meat Inspection Act

SECTION 64. AMENDATORY 2 O.S. 1991, Section 6-185, is amended to read as follows:

Section 6-185. A. The ~~foregoing provisions~~ Oklahoma Meat Inspection Act shall apply to ~~all~~:

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 ~~Sections 6-181 et seq. of this title~~ the Oklahoma Meat Inspection Act is maintained~~, and such examination~~. Examination and inspection shall be ~~had~~ made before the ~~said~~ 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 ~~the foregoing provisions shall also apply to all~~

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 ~~Sections 6-118 et seq. of this title~~ the Oklahoma Meat inspection Act is maintained, under ~~such~~ 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 ~~this act~~ the Oklahoma Meat Inspection Act.

K-3. Exotic Livestock and Exotic Livestock Products Inspection Act

SECTION 65. AMENDATORY Section 1, Chapter 5, O.S.L. 1994 (2 O.S. Supp. 1999, Section 6-291), is amended to read as follows:

Section 6-291. 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 ~~and regulations~~ governing the movement and testing of exotic livestock as defined in Section 6-290.3 of ~~Title 2 of the Oklahoma Statutes~~ this title, in intrastate commerce with regards to disease emergency, disease control, or disease eradication.

B. The ~~State~~ Board ~~of Agriculture~~ shall have the authority to issue and enforce rules ~~and regulations~~ governing the movement and testing of exotic livestock as defined by Section 6-290.3 of ~~Title 2 of the Oklahoma Statutes~~ 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.

L. Animal Industry ~~Division~~

SECTION 66. AMENDATORY 2 O.S. 1991, Section 6-302, is amended to read as follows:

Section 6-302. A. To enable the State Board of Agriculture to implement its duties and responsibilities regarding disease eradication and control, authorized agents of the Board are authorized to stop a vehicle transporting any livestock ~~as such term is defined by Section 1-3 of Title 2 of the Oklahoma Statutes,~~ for the purposes of inspecting and examining:

1. Livestock being ~~so~~ transported; and

2. The documents relating to the health, ownership, or destination of the livestock.

B. Agents of the Board are ~~also~~ 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.

C. The authorized agents designated ~~by the Board~~ to stop ~~such~~ vehicles and issue ~~such~~ citations shall be required to satisfactorily complete those courses offered by law enforcement agencies as are required by the Board.

ARTICLE 7. MILK AND DAIRY PRODUCTS

AND MILK PRODUCTS PLANTS

SECTION 67. AMENDATORY Section 1, Chapter 68, O.S.L. 1998 (2 O.S. Supp. 1999, Section 7-1.1), is amended to read as follows:

Section 7-1.1 A. The ~~Department~~ Commissioner of Agriculture shall create an Oklahoma Dairy Committee which shall serve as an advisory committee to the Department of Agriculture. The Committee shall:

1. Assist similarly designed committees or commissions in at least three of the states south and east or contiguous to Oklahoma in the formulation or development of a dairy compact or dairy compacts to effect uniformity in regulating and insuring an adequate supply of pure and wholesome milk to the public at an equitable and fair price for Oklahoma dairy producers;

2. Submit ~~any such~~ a dairy compact to the Legislature of this state for ratification and to Congress for consent; and

3. ~~Such~~ Any other duties and responsibilities necessary to organize and prepare for the development and implementation of a dairy compact pursuant to this section.

B. 1. The Oklahoma Dairy Committee shall consist of the following persons:

a. the Governor shall appoint three members as follows:

(1) a representative of the Oklahoma cattle industry who is actively engaged in milk production, from a list submitted by statewide Oklahoma cattlemen's producer associations,

(2) a representative of the Oklahoma milk processing industry, and

(3) ~~one~~ a member from the public at large,

b. the Speaker of the House of Representatives shall appoint two members as follows:

(1) a representative of an Oklahoma statewide dairy producer association, and

(2) a representative from the pure breed dairy cattle industry, and

c. the President Pro Tempore of the Senate shall appoint two members as follows:

(1) a representative from the State Board of Agriculture, and

(2) a member from the public at large.

2. The members shall be residents and voters of the State of Oklahoma.

C. The initial appointments for each gubernatorial and legislative member shall be for progressive terms of one (1) through three (3) years so that only one term expires each calendar year. Subsequent appointments shall be for three-year terms.

D. All appointees to the Committee shall be selected for outstanding knowledge and leadership in their fields.

E. No appointed member may serve more than three consecutive full terms of office on the Committee.

F. Any vacancy in the membership of the Committee shall be filled for the unexpired term in the same manner as the original appointment.

G. The ~~chairman~~ chair of the Committee shall be elected annually from among the Committee members.

H. The Committee shall meet at least six times annually.

I. Members of the Committee shall be reimbursed by their appointing authority for actual and necessary travel expenses pursuant to the State Travel Reimbursement Act for performance of their duties as members of the Oklahoma Dairy Committee.

J. The Oklahoma Dairy Committee shall have the authority to adopt organizational and operating policies to govern its

operations. All organizational and operating policies of the Committee shall be adopted through procedures utilized by and pursuant to the supervision of the ~~Department~~ Commissioner of Agriculture.

K. 1. During formulation and development of the compact, the State Board of Agriculture may provide recommendations and suggestions for the dairy compact through the Committee.

2. Upon acceptance of the compact by other similarly designed committees or other commissions in at least three of the states south and east or contiguous to Oklahoma, the Board shall have no authority to modify or ~~otherwise~~ alter the compact.

3. When the compact has been formulated and developed, the Committee shall submit the proposed compact to the Legislature for ratification.

M. Oklahoma Milk and Milk Products Act

SECTION 68. AMENDATORY 63 O.S. 1991, Section 1-1301.2, as amended by Section 5, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994 (2 O.S. Supp. 1999, Section 7-402), is amended to read as follows:

Section 7-402. It is the policy of this state and the purpose of the Oklahoma Milk and Milk Products Act ~~and it is hereby declared to be the policy of this state~~ to regulate the quality and the minimum sanitary requirements of the production, processing, and distribution of milk and milk products in a manner that ~~will~~ 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 ~~among sister states~~.

SECTION 69. AMENDATORY 63 O.S. 1991, Section 1-1301.3, as amended by Section 6, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994 (2 O.S. Supp. 1999, Section 7-403), is amended to read as follows:

Section 7-403. As used in the Oklahoma Milk and Milk Products Act:

1. ~~"Commissioner" means the Commissioner of Agriculture or his or her duly authorized employee~~ "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 ~~place or~~ 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. ~~"Milk facility" means such producing, processing, hauling 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;~~

~~5.~~ "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 ~~substantially~~ meet the requirements of the Oklahoma Milk and Milk Products Act;

~~6.~~ 5. "Inhibitor" means any chemical or antibiotic substance which inhibits or retards the growth of bacteria in milk;

~~7.~~ 6. "Milk" ~~is defined to be~~ 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%) ~~milkfat~~ milk fat. The term "milk" shall ~~be interpreted to~~ include goat milk~~. Wherever the term "milk" is used in the Oklahoma Milk and Milk Products Act, it shall mean~~, 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;

~~8.~~ 7. "Milk contact surface" means any pipe, tank, equipment, or facility which contacts or may contact milk during the producing, ~~hauling~~ transporting, processing, or distributing of milk and milk products;

~~9.~~ 8. "Milk distribution center" means any ~~place or~~ 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 ~~to the ultimate consumer~~;

~~10.~~ 9. "Milk ~~hauler~~ facility" means the ~~systems and any person who owns, controls or operates systems which transport raw milk or raw milk products to or from a milk plant or receiving or transfer station~~ 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;

~~11.~~ 10. "Milk fat" or "butter fat" means the fat of milk;

11. "Milk plant" means any ~~place or~~ 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~~;~~

~~14. "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;~~

~~15. "Person" means any natural or artificial person including but not limited to individuals, partnerships, associations or corporations, or any other legal entity;~~

~~16. "Receiving or transfer station" means any place or premises where milk or milk products are received or shipped, except by retail to the ultimate consumers, and any premises or facilities used for transferring milk or milk products from one tank or truck to another;~~

~~17. "Milk fat" or "butter fat" means the fat of milk;~~

~~18. "Department" means the Oklahoma State Department of Agriculture;~~

~~19. "Retail food store" means any establishment which offers for retail sale packaged or bulk food goods for human consumption; and~~

~~20. "Board" means the State Board of Agriculture~~.

SECTION 70. AMENDATORY 63 O.S. 1991, Section 1-1301.4, as last amended by Section 7, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994 (2 O.S. Supp. 1999, Section 7-404), is amended to read as follows:

Section 7-404. A. The State Board of Agriculture shall promulgate ~~reasonable~~ rules governing:

1. The ~~producing, transporting~~ production, transportation, processing, ~~pasteurizing~~ pasteurization, handling, identity, sampling, examination, labeling, marking, shipping statements, optional ingredients, ~~definition~~ definitions, and ~~the~~ sanitary conditions for milk and milk products;

2. The inspection and sanitary rating of ~~dairy herds,~~ dairy farms, bulk milk ~~hauler~~ hauler/samplers, milk transportation companies, milk tank truck cleaning facilities, milk plants, and distribution centers engaged in ~~the~~ producing, ~~hauling~~ transporting, processing, and distributing ~~of~~ milk and milk products;

3. The issuing, modifying, suspending, and revoking of permits to producers, ~~haulers~~ 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 except for waste disposal therefrom, which shall be regulated by the Department of Environmental Quality;

5. All ~~creameries, public dairies, butter and~~ cheese factories~~, milk depots, milk and cream collecting stations, market houses where dairy products are sold, buildings occupied by retail dealers in milk, frozen dairy desserts, cream, butter or cheese~~;

6. All ~~vehicles~~ modes of transportation used for the distribution of milk and cream ~~and all railroad cars, vehicles and other means of transporting milk and cream~~ to market; and

7. The labeling and packaging of milk and milk products.

B. ~~Insofar as permitted by the laws of this state, the~~ The rules promulgated by the Board shall be in ~~reasonable~~ accord with the minimum standards and requirements for milk and milk products currently recommended and ~~published~~ established by the ~~U.S.~~ United States Department of Health and Human Services, Food and Drug Administration, including the Recommended Grade A Pasteurized Milk Ordinance~~, and successors thereto~~.

~~C. The rules promulgated by the State Board of Health for the powers and duties specified in the Oklahoma Milk and Milk Products~~

~~Act which were in effect on June 30, 1994, shall remain effective until the promulgation of new rules by the Board.~~

SECTION 71. AMENDATORY 63 O.S. 1991, Section 1-1301.5, as renumbered by Section 30, Chapter 140, O.S.L. 1994, and as last amended by Section 3, Chapter 289, O.S.L. 1994 (2 O.S. Supp. 1999, Section 7-405), is amended to read as follows:

Section 7-405. 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 ~~such~~ periodic inspection and investigation as ~~deemed~~ necessary to determine compliance with the Oklahoma Milk and Milk Products Act and to ~~make a~~ record ~~of~~ each inspection on a form ~~to be~~ approved by the ~~Board~~ Commissioner. Every milk producer, bulk milk ~~hauler~~ hauler/sampler, milk tank truck driver, milk transportation company, milk tank truck cleaning facility, milk processor, or milk distributor engaged in producing, ~~hauling~~ transporting, processing, or distributing ~~of~~ milk and milk products shall, upon request, ~~according to law,~~ permit access of the Commissioner to all areas of ~~his~~ establishment, during ~~reasonable~~ normal business hours, to ~~so~~ 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~~ hauler/sampler, milk transportation company, milk tank truck cleaning facility, milk processor, or milk distributor~~; provided that milk~~. Milk and milk products packaged for retail sale to consumers ~~may~~ shall not be taken without first paying or offering to pay for ~~such~~ 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~~ 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, ~~hauling~~ transporting, processing, or distributing of milk and milk products upon receipt of permit applications ~~therefor~~ and upon determining that ~~such~~ these facilities are in compliance with the Oklahoma Milk and Milk Products Act and to modify, suspend, or revoke such permits ~~for the producing, hauling, processing or distributing of milk and milk products in accordance with the Oklahoma Milk and Milk Products Act~~;

7. Maintain~~, as public records,~~ laboratory reports of samples collected by the Commissioner, listings of permits issued, modified, suspended, and revoked;

8. Require submission ~~of and to~~, timely review, and ~~approve prior to commencement~~ approval, of ~~work,~~ plans, specifications, and

other information relative to the construction~~, reconstruction~~ or alteration of milk and milk product facilities, prior to the commencement of work;

9. Examine~~, for official use only, true~~ 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.

SECTION 72. AMENDATORY 63 O.S. 1991, Section 1-1301.6, as amended by Section 9, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994 (2 O.S. Supp. 1999, Section 7-406), is amended to read as follows:

Section 7-406. 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. ~~Grade A raw goat milk may be sold in grocery stores or drug stores; and~~

~~3.~~ In an emergency, the sale of pasteurized milk and milk products which have not been graded, or the grade ~~of which~~ is unknown, may be authorized by the Commissioner of Agriculture~~; in which case, such~~ 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~~, within or without this state,~~ 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 ~~the~~ its successor ~~thereto~~.

SECTION 73. AMENDATORY 63 O.S. 1991, Section 1-1301.7, as amended by Section 10, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994 (2 O.S. Supp. 1999, Section 7-407), is amended to read as follows:

Section 7-407. A. Any Grade A milk or milk product shall be ~~deemed to 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 ~~such~~ 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 ~~insanitary~~ 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 ~~thereto or~~, mixed, ~~or~~ packed ~~therewith~~, or any process applied ~~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.

B. Grade A milk and milk products shall be ~~deemed to be~~ misbranded when:

1. Their containers bear or accompany any false or misleading written, printed, or graphic matter;

2. ~~Such~~ The milk and milk products do not conform to ~~their~~ the definitions in ~~accordance with~~ the Oklahoma Milk and Milk Products Act;

3. ~~Such~~ The products are not labeled in accordance with the Oklahoma Milk and Milk Products Act; and

4. ~~Such products~~ Products are labeled "Grade A" when ~~such~~ the packaged products were filled from a dairy plant or milk plant which did not possess an appropriate and valid Grade A permit ~~issued by the Commissioner~~ at the time the milk or milk product was produced or processed.

SECTION 74. AMENDATORY 63 O.S. 1991, Section 1-1301.8, as amended by Section 11, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994 (2 O.S. Supp. 1999, Section 7-408), is amended to read as follows:

Section 7-408. A. No person shall produce, haul, process, or distribute Grade A raw milk for pasteurization or milk and milk products, or hold himself or herself out as a milk producer, ~~hauler~~ transporter, processor, or distributor or represent ~~his~~ a dairy farm, bulk milk ~~hauler~~ 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~~ 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 ~~to the Commissioner~~ on a form approved by the ~~Board~~ Commissioner of Agriculture. Each applicant shall allow the Commissioner to inspect the applicable premises, records, and facilities. The Commissioner shall ~~timely~~ inspect ~~said~~ premises and facilities and issue the permit applied for when compliance is confirmed. ~~Said~~ The permits shall be issued without ~~either~~ a fee or expiration date and shall not be transferable among persons or places.

C. ~~However, the~~ The Commissioner~~, without an inspection,~~ may issue ~~such~~ permits, which shall be contingent upon ~~and subject to~~ continuing compliance, to ~~such~~ facilities located ~~without~~ outside this state which comply with the provisions of subsection B of Section ~~9~~ 7-406 of this ~~act; provided, that if such~~ title. If an out-of-state facility requests, or if ~~such~~ the facility is not ~~so~~ certified, then the cost for all inspections necessary~~, inspection by the Commissioner and costs of such inspection~~ pursuant to this subsection shall be paid by ~~such~~ those facilities and the amounts ~~so~~ paid shall be deposited in the State Department of Agriculture Revolving Fund.

D. The ~~Board may~~ Commissioner shall issue permits and establish ~~classification~~ classifications for milk and milk products ~~and the producing, processing, distribution, storing, and hauling of milk and milk products and issue permits therefor~~.

SECTION 75. AMENDATORY 63 O.S. 1991, Section 1-1301.9, as amended by Section 12, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994 (2 O.S. Supp. 1999, Section 7-409), is amended to read as follows:

Section 7-409. A. ~~To determine compliance with the requirements of the Oklahoma Milk and Milk Products Act, the~~ The Commissioner of Agriculture shall collect~~, or cause to be collected,~~ 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, ~~milk hauler,~~ or milk plant ~~and milk distributor, as appropriate;~~ and shall collect and analyze~~, from time to time,~~ representative Grade A milk and milk products ~~from retail establishments~~, as required by ~~this act~~ 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 ~~thereof~~ 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 ~~the~~ sending ~~of such~~ 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~~; and~~, 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 ~~such~~ 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 ~~Agricultural~~ Analytical Chemists. ~~Such~~ The procedures including the certification of sample collectors and the examinations shall be evaluated in accordance with the Evaluation of Milk Laboratories, ~~1978~~ 1995 Recommendations of the U.S. Public Health Service/Food and Drug Administration and its successors ~~thereto~~.

SECTION 76. AMENDATORY 63 O.S. 1991, Section 1-1301.10, as amended by Section 13, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994 (2 O.S. Supp. 1999, Section 7-410), is amended to read as follows:

Section 7-410. A. ~~Notwithstanding that~~ Since analytical results may not become available until after the ~~ultimate Grade A~~ milk and milk products ~~have reached~~ reach retail stores and consumers, ~~it is declared that~~ the Commissioner of Agriculture, for the imperative protection of public health, safety, and welfare ~~imperatively~~, as defined in the Administrative Procedures Act, ~~requires such and the Commissioner, immediately~~ shall upon receipt of the ~~appropriate~~ analysis, ~~shall~~ 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 ~~such time as~~ 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 ~~subsection B of~~ Section ~~12~~ 7-409 of this ~~act~~ title for at least twenty-four (24) hours and until ~~such time as~~ the dairy farm or milk plant is inspected and/or sampled and found to be in compliance ~~with the requirements of the Oklahoma Milk and Milk Products Act; provided, that the Commissioner shall conduct such inspection as soon as is reasonably possible after request for such inspection~~.

B. The Commissioner shall ~~immediately~~ notify and suspend~~, and it is hereby declared that the protection of public health, safety and welfare imperatively requires such, as defined in the Administrative Procedures Act,~~ the permit of a facility ~~upon refusal~~ 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. ~~Such~~ This suspension shall continue ~~under such grounds~~ until ~~such time as~~ an inspection is allowed or the milk contact surfaces are found to be clean~~, respectively; provided, that the Commissioner shall conduct such inspection as soon as is reasonably possible after request for inspection~~.

C. The Commissioner may ~~also~~ suspend ~~or~~, revoke or refuse to renew a permit ~~upon a finding of~~ for continuing or multiple violations of the Oklahoma Milk and Milk Products Act, or ~~summarily~~ suspend a Grade A permit ~~when~~ to protect the public health, safety, or welfare ~~imperatively requires such, in accordance with the Administrative Procedures Act~~.

SECTION 77. AMENDATORY 63 O.S. 1991, Section 1-1301.11, as amended by Section 14, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994 (2 O.S. Supp. 1999, Section 7-411), is amended to read as follows:

Section 7-411. A. No person affected with any disease ~~in a communicable form, or while a carrier~~ capable of ~~such disease,~~ being transmitted to others through the contamination of food shall work at any dairy farm or milk plant in any capacity which brings ~~him~~ 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 ~~such~~ capacity any ~~such~~ affected person, ~~or~~ any person suspected of having any disease ~~in a communicable form~~ capable of being transmitted to others through the contamination of food, or of being a carrier of ~~such disease~~ communicable diseases. Any milk producer, processor, or distributor who suspects that any employee has contracted any disease ~~in a communicable form,~~ or has become a carrier of ~~such~~ 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 ~~and bacteriological~~ examination and testing of the person, of his or her associates, and of ~~his and their body~~ the bodily discharges of both.

SECTION 78. AMENDATORY 63 O.S. 1991, Section 1-1301.12, as amended by Section 15, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994 (2 O.S. Supp. 1999, Section 7-412), is amended to read as follows:

Section 7-412. A. All milk for pasteurization and ~~all milk~~ for Grade A raw distribution shall be from herds ~~which are~~ located in a Modified Accredited Tuberculosis Area as determined by the U.S. Department of Agriculture~~: Provided~~; provided, that herds located in an area that fails to maintain ~~such~~ accredited status shall have been ~~accredited~~ certified by ~~said~~ the United States Department of Agriculture as tuberculosis-free, or shall have ~~passed~~ an annual negative tuberculosis test.

B. All milk for pasteurization and for Grade A raw distribution shall be from herds participating in ~~a milk ring testing~~ 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 ~~with individual~~. Individual blood tests may be required on all animals in herds showing ~~suspicious~~ positive reactions to the ~~milk ring~~ Brucellosis Milk Surveillance test.

C. For diseases other than brucellosis and tuberculosis, the Commissioner shall require ~~such~~ physical, chemical, or bacteriological tests as ~~are deemed~~ 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 ~~such~~ the test shall be disposed of as the State Veterinarian directs.

SECTION 79. AMENDATORY 63 O.S. 1991, Section 1-1301.13, as amended by Section 16, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994 (2 O.S. Supp. 1999, Section 7-413), is amended to read as follows:

Section 7-413. ~~A.~~ It shall be unlawful for any person to knowingly:

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 ~~or~~, 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 ~~Health~~ 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 ~~with~~, 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.

~~B. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor.~~

SECTION 80. AMENDATORY 63 O.S. 1991, Section 1-1301.14, as amended by Section 17, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994 (2 O.S. Supp. 1999, Section 7-414), is amended to read as follows:

Section 7-414. 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 ~~such~~ the incidental sale of goat milk; and

3. Prohibit any farmer or producer from making cheese ~~of~~ using milk or cream produced on ~~his own~~ 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).

SECTION 81. AMENDATORY 63 O.S. 1991, Section 1-1301.15, as amended by Section 18, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994 (2 O.S. Supp. 1999, Section 7-415), is amended to read as follows:

Section 7-415. A. ~~There is hereby assessed a~~ A fee of one cent ($0.01) shall be assessed on each one hundred (100) pounds of raw milk produced in ~~Oklahoma~~ this state. Each co-op ~~or~~, 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 ~~such~~ the fees each calendar month to the Commissioner of Agriculture ~~to be remitted to the State Treasury~~ 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 ~~such~~ the fees each calendar month to the Commissioner ~~to be remitted to the State Treasury~~ to be credited to the Milk and Milk Products Inspection Revolving Fund ~~in~~ 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.

SECTION 82. AMENDATORY 63 O.S. 1991, Section 1-1301.16, as amended by Section 19, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994 (2 O.S. Supp. 1999, Section 7-416), is amended to read as follows:

Section 7-416. ~~A.~~ There is hereby created in the State Treasury a revolving fund to be known as the "Milk and Milk Products Inspection Revolving Fund". ~~Said~~ The fund shall be a continuing fund not subject to fiscal year limitations and is ~~hereby~~ 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 ~~said~~ the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

~~B. Any unencumbered monies remaining in the Milk Inspection Revolving Fund on June 30, 1994, shall be transferred to the credit of the Milk and Milk Products Inspection Revolving Fund.~~

SECTION 83. AMENDATORY 63 O.S. 1991, Section 1-1301.19, as amended by Section 22, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994 (2 O.S. Supp. 1999, Section 7-419), is amended to read as follows:

Section 7-419. A. Whenever the Commissioner~~, or any authorized agent of the Department,~~ of Agriculture finds ~~or has probable cause to find that~~ any dairy product, in whole or in part, ~~does not~~ that fails to meet the requirements of the ~~standards as required by the~~ Oklahoma Milk and Milk Products Act, or that ~~such~~ a product is handled in violation of law or rules of the State Board of Agriculture, ~~he shall affix to such article~~ a tag or other appropriate marking~~,~~ shall be affixed which shall ~~thereby~~ give notice that ~~such article~~ 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 ~~such article by sale or otherwise~~ the dairy product until permission for removal or disposal is given by the ~~Department~~ Commissioner. It shall be unlawful ~~and a misdemeanor~~ for any person to remove or dispose of ~~such~~ the dairy product quarantined ~~article by sale or otherwise~~ without ~~such~~ permission.

B. If the ~~Department~~ Commissioner finds that ~~an article~~ dairy product quarantined pursuant to subsection A of this section does not meet the requirements of law, or ~~such~~ the rules, the ~~Department~~ Commissioner may institute an action in the district court in whose jurisdiction the ~~article~~ dairy product is quarantined, for the condemnation and destruction of ~~such article~~ the dairy product. If~~, however,~~ the ~~Department~~ Commissioner finds that ~~an article so~~ the dairy product quarantined does meet the requirements of law and ~~such~~ the rules, the ~~Department~~ Commissioner shall ~~forthwith~~ remove the quarantine. In any court proceeding ~~because of such~~ regarding a quarantine, the State Department of Agriculture or ~~any authorized agent thereof, or~~ the Commissioner, shall not be held liable if the court ~~shall find there was~~ finds probable cause for ~~such~~ the quarantine.

C. If ~~any~~ the court finds that a quarantined ~~article~~ dairy product, in whole or in part, is in violation of the law ~~or such rules~~, ~~such article~~ the dairy product shall~~, after an entry of a decree,~~ be destroyed at the expense of the owner or defender ~~thereof~~, under the supervision of the ~~Department, and all~~ Commissioner. All court costs, ~~and~~ fees, ~~and~~ cost of storage, and other proper expenses shall be ~~taxed against~~ paid by the owner or defender of ~~such article, or his agent~~ the dairy product. ~~If~~ 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 ~~article~~ dairy product, ~~the court, after an entry of the decree, and after such~~ all costs, fees, and expenses have been paid, and a ~~good and~~ sufficient bond is executed and conditioned ~~that such article be so processed has been executed, may by order direct that such article be delivered to the owner or defender thereof~~ for appropriate labeling or processing ~~under the supervision of the Department~~ as the court may require. The expense of supervision shall be paid to the ~~Department~~ Commissioner by the person obtaining release of the ~~article~~ dairy product under bond.

SECTION 84. AMENDATORY 2 O.S. 1991, Section 8-21, is amended to read as follows:

Section 8-21. ~~When~~ As used in this subarticle:

~~(a) The term "person" includes any individual, partnership, corporation, company, society or association.~~ 1. "Advertisement" means all representations, other than those on the label, disseminated in any manner or by any means~~,~~ relating to seed;

~~(b) The term "agricultural seed" includes~~ 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 ~~such~~ seeds~~.~~;

~~(c) The term "vegetable seeds" includes 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.~~

~~(d) The term "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.~~

~~(e) The term "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.~~

~~(f) The term "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.~~

~~(g) The term "hybrid seed corn" as applied to field corn, sweet corn or popcorn means the first generation seed of a cross made under controlled conditions between different strains and involving one or more inbred lines of corn. For purposes of labeling, the number or other designations of hybrid corn shall be used as a variety name.~~

~~(h) The terms "certified seed" , "registered seed" and "foundation seed" means seed that has been produced and labeled in accordance with the procedures and in compliance with the rules and regulations of an officially recognized seed-certifying agency or association.~~

~~(i) The term "weed seeds" shall include the seeds of all plants generally recognized as weeds within this state and includes noxious weed seeds.~~

~~(j) Noxious weed seeds shall be divided into two classes, "prohibited noxious weed seeds" and "restricted noxious weed seeds" as defined in (1) and (2) of this subsection: Provided, that the State Board of Agriculture may through promulgation of regulations, add to or subtract from the list of seeds included under either definition whenever it finds that such additions or subtractions are within the respective definitions.~~

~~(1) Prohibited noxious weed seeds are the seeds of perennial weeds such as not only reproduce by seeds, but also spread by underground roots, stems and other reproductive parts, and which, when established, 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.~~

~~(2) Restricted noxious weed seeds are the seeds of such weeds as are very objectionable in fields, lawns and gardens of this state, but can be controlled by good cultural practice.~~

~~(k) The term "labeling" includes all labels and other written, printed or graphic representations, in any manner whatsoever, accompanying and pertaining to any seed whether in bulk, or in containers, and includes representations on invoices.~~

~~(l) The term "advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this subarticle.~~

~~(m) The term "record" includes all information relating to lot, identification, source, origin, variety, amount, processing, testing, labeling, distribution and a file sample of the seed.~~

~~(n) The term "stop sale" means an administrative order provided by law restraining the sale, use, disposition and movement of a definite amount of seed.~~

~~(o) The term "seizure" means a legal process carried out by court order against a definite amount of seed.~~

~~(p) The term "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.~~

~~(q) The term "germination" means the percent of seeds capable of producing normal seedlings under ordinarily favorable conditions.~~

~~(r) The term "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 such seed or plants therefrom, or will otherwise improve the planting value of the seed.~~

~~(s) The term "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 such as, but not limited to, rhizobia, dyes and pesticides are excluded.~~

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 undesireable within this state and includes noxious weed seeds.

SECTION 85. AMENDATORY 2 O.S. 1991, Section 8-22, is amended to read as follows:

Section 8-22. A. Each bag, container, package, or bulk of agricultural seed ~~which is~~ transported, sold, offered for sale, or exposed for sale by any ~~vendor or~~ person within the State of Oklahoma for planting purposes, shall have, ~~or~~ bear, ~~thereon~~ or have attached ~~thereto~~ 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~~;~~.

~~(a)~~ B. For treated seed, separate labeling ~~which may be attached must~~ shall show:

~~(1) A~~ 1. A word or statement that the seed has been treated;

~~(2) The~~ 2. The name or "coined name" of the treatment;

~~(3) If~~ 3. If harmful, the label must show the statement "Not to be Used for Feed or Food", and if ~~mercurials or any other~~ poisonous materials are used, the label must show a caution statement ~~and carry~~ stating words "Poison Treated".

~~(b)~~ C. For agricultural seeds separate labeling shall show:

~~(1)~~ 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. ~~Where~~ 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)~~ 2. Net weight;

~~(3)~~ 3. Lot number or other lot identification;

~~(4)~~ 4. Origin~~. State~~, including state or foreign country where grown. If the origin is unknown, that fact shall be stated;

~~(5)~~ 5. Percentage pure seed;

~~(6)~~ 6. Percentage by weight of inert matter;

~~(7)~~ 7. Percentage by weight of agricultural seed, other than the one required to be named on the label (designated as "other crop seed");

~~(8)~~ 8. Percentage by weight of all weed seeds;

~~(9)~~ 9. The name and rate of occurrence of each kind of restricted noxious weed seed per pound when present in any amount;

~~(10)~~ 10. For each named agricultural seed:

~~(A) Percentage~~

a. percentage of germination, exclusive of hard seed,

~~(B) Percentage~~

b. percentage of hard seed, if present, and

~~(C) The~~

c. the calendar month and year the test was completed to determine ~~such~~ percentages~~.~~;

11. Following (A) and (B), above, the "total germination and hard seed" may be stated if desired; and

~~(11)~~ 12. Name and address of the person or vendor who labeled the seed or who sells, offers, or exposes the seed for sale ~~or transportation~~ within the state.

~~(c)~~ D. For vegetable seeds labeling shall show:

~~(1)~~ 1. Net weight;

~~(2)~~ 2. Name of kind and variety of seed; and

~~(3)~~ 3. For seeds which germinate less than the standard last established by the State Board of Agriculture ~~under rules and regulations promulgated under this subarticle;~~:

~~(A) Percentage~~

a. percentage of germination, exclusive of hard seed,

~~(B) Percentage~~

b. percentage of hard seed, if present,

~~(C) The~~

c. the calendar month and year the test was completed to determine ~~such~~ the percentages, ~~and~~

~~(D) The~~

d. the words "below standard" in not less than eight-point type~~;~~, and

~~(4) Name~~

e. name and address of the person who labels the seed, or who sells, offers, or exposes the seed for sale within this state.

~~(d)~~ E. For coated seed. In addition to the ~~above-~~required labeling for ~~(b)~~ agricultural and ~~(c)~~ vegetable seeds, when ~~such~~ the seeds have been coated, labeling shall show:

~~(1)~~ 1. A word statement that seeds have been coated; and

~~(2)~~ 2. Percentage by weight of inert coating material ~~inert.~~

~~(To be shown as a separate item in association with inert matter)~~.

SECTION 86. AMENDATORY 2 O.S. 1991, Section 8-23, is amended to read as follows:

Section 8-23. ~~(a)~~ A. It shall be unlawful for any person ~~or vendor~~ to sell, offer for sale, or expose for sale~~, or transport for sale~~ any agricultural seed or vegetable seed within this state:

~~(1)~~ 1. Unless a license has been obtained in accordance with the provisions of Sections 8-21 through 8-29 of this title~~.~~;

~~(2)~~ 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)~~ 3. Not labeled in accordance with the provisions of this subarticle and rules ~~and regulations made thereunder~~, or having a false or misleading label~~.~~;

~~(4) Pertaining to which~~ 4. When there has been a false or misleading advertisement~~.~~; or

~~(5)~~ 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 ~~such~~ the form ~~as may be~~ prescribed by rules ~~and regulations~~ of the State Board of Agriculture, to show the name of ~~such~~ the substance and if ~~such~~ the substance may be harmful to humans or animals, a warning or caution statement adequate to protect the public.

~~(b)~~ B. It shall be unlawful for any person within this state:

~~(1)~~ 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 ~~and regulations~~ promulgated under the provisions of this subarticle~~.~~;

~~(2)~~ 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 ~~and regulations~~ promulgated under the provisions of this subarticle~~.~~;

~~(3)~~ 3. To detach, alter, deface, or destroy any label required or provided for in this subarticle or the rules ~~and regulations promulgated thereunder, or to~~;

4. To alter or substitute seed in a manner that may defeat the purposes of this subarticle~~.~~;

~~(4)~~ 5. To disseminate any false or misleading advertisement concerning agricultural seed or vegetable seed in any manner or by any means~~.~~;

~~(5) To hinder or obstruct in any way any authorized agent of the State Board of Agriculture in the performance of his duties under this subarticle.~~

~~(6)~~ 6. To fail to comply with a "stop-sale" order made by the ~~State~~ Board ~~of Agriculture, or any authorized agent thereof,~~ on agricultural seed or vegetable seed sold, offered for sale, or exposed for sale; or to move, ~~or otherwise~~ handle, or dispose of any lot of seed held under a "stop-sale" order except with the ~~express~~ permission of the ~~State~~ Board ~~of Agriculture or an authorized agent thereof,~~ and for the purposes specified ~~thereby.~~;

~~(7)~~ 7. To fail to keep complete records of each lot of seed or make available for inspection ~~such~~ the records of origin, testing, variety, distribution, seed samples, invoices, and other pertinent records or information, to the ~~State~~ Board ~~of Agriculture or any authorized agent thereof.~~; or

~~(8)~~ 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 ~~and regulations~~ of an officially recognized seed-certifying agency or association.

SECTION 87. AMENDATORY 2 O.S. 1991, Section 8-24, is amended to read as follows:

Section 8-24. Each person whose name appears on the label and ~~who~~ 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 ~~of such lot~~. All records pertaining to the lot or lots involved shall be accessible for inspection by the State Board of Agriculture ~~or any authorized agent thereof, at any time~~ during customary business hours.

SECTION 88. AMENDATORY 2 O.S. 1991, Section 8-25, is amended to read as follows:

Section 8-25. ~~(a)~~ A. No person ~~or vendor~~ 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 ~~were~~ is incorrectly labeled or represented as to kind, kind and variety, or origin which cannot be identified by examination ~~thereof~~, unless ~~he~~ the person failed to obtain an invoice or grower's declaration giving kind, or kind and variety, and origin, and to take ~~such other~~ precautions ~~as may be~~ necessary or required to insure the identity and variety of the seed ~~to be that stated~~.

~~(b)~~ B. The provisions of Sections ~~2~~ 8-22 and ~~3~~ 8-23 of this ~~subarticle~~ title shall not apply:

~~(1)~~ 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 seed or grain not intended for planting purposes; provided, that said seed or grain sold to a farmer or consumer that could be used for planting purposes shall be marked or tagged "For Feed" or "Not For Planting."~~

~~(3)~~ 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 ~~such~~ the carrier is not engaged in producing, processing, or marketing agricultural or vegetable seed ~~subject to the provisions of this subarticle~~.

SECTION 89. AMENDATORY 2 O.S. 1991, Section 8-26, is amended to read as follows:

Section 8-26. ~~(a)~~ The ~~duty of this subarticle and carrying out its provisions and requirements shall be vested in the~~ State Board of Agriculture~~, which may act through its authorized agents, and which~~ shall have authority:

~~(1)~~ 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 ~~such~~ any time and place and to ~~such~~ any extent ~~as may be deemed~~ necessary to determine whether ~~such~~ the agricultural seed or vegetable seed are in compliance with the provisions of this subarticle and rules ~~and regulations~~ promulgated ~~thereunder~~ thereto;

~~(2) To enter upon any public or private premises during regular business hours in order to have access to seeds subject to this subarticle and rules and regulations promulgated thereunder;~~

~~(3)~~ 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 ~~and regulations~~ promulgated ~~thereunder~~ 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;

~~(4)~~ 3. To furnish adequate facilities for seed testing and to employ qualified persons for making ~~such~~ the tests;

~~(5)~~ 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; ~~and~~

~~(6)~~ 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~~.~~;

~~(b) Further, for the purpose of carrying out the provisions of this subarticle the State Board of Agriculture, which may act through its authorized agents, is authorized:~~

~~(1)~~ 6. To issue a license to any person~~, vendor, partnership, firm, corporation, trust, company, society or association~~ upon payment of Five Dollars ($5.00) for each retail seed ~~dealer~~ dealer's license and Twenty-five Dollars ($25.00) for each wholesale seed ~~dealer such~~ dealer's license or Thirty Dollars ($30.00) for each retail-wholesale seed dealer's license to be applied for by each seed dealer upon forms furnished for ~~such~~ 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~~, except where packet vegetable seeds only are sold from racks or stands, and for any truck or other means of transportation, from which agricultural seed or vegetable seed are sold, offered for sale or exposed for sale. Where packet vegetable seeds are sold, or offered for sale from racks or stands furnished by persons customarily engaged in such business, a retail license stamp at a cost of Two Dollars ($2.00) shall be required on each vegetable seed rack or stand~~. Each license shall expire on ~~the 30th day of June following the date of issuance, except retail license stamps for packet vegetable seed racks or stands shall be issued on a calendar year basis~~ a date to be determined by the Board. Any license issued under the provisions of this subarticle may be revoked by the ~~State~~ Board ~~of Agriculture~~ upon satisfactory proof that the licensee has violated any of the provisions of this subarticle or any of the rules ~~and regulations promulgated thereunder~~;

~~(2)~~ 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 ~~in excess of the number allowed free,~~ as prescribed in rules ~~and regulations~~ promulgated ~~under this subarticle~~ by the Board;

~~(3)~~ 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 ~~such~~ this statement shall pay the inspection fee ~~herein provided~~ required. Each person labeling and distributing seed shall keep ~~such~~ records ~~as may be necessary or~~ required by the ~~State Board of Agriculture~~ Board to indicate accurately the number of pounds of seed sold~~. The State Board of Agriculture, or its authorized agent, shall have the right to~~;

9. To examine ~~such~~ records and to verify the statement of the number of pounds of seed sold and the inspection fee reported. The

form of ~~such~~ the statement for reporting and paying the seed inspection fees on a semiannual basis shall be prescribed in rules ~~and regulations~~ of the ~~State~~ Board ~~of Agriculture~~. Failure to make an accurate statement of the number of pounds of seed sold and payment of the inspection fee ~~as provided herein~~ 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 ~~unless prior written approval is obtained for a delayed report~~; and

~~(4)~~ 10. To collect all fees and other money as provided in this subarticle and deposit the ~~same~~ monies in the State Department of Agriculture ~~Trust~~ Revolving Fund.

SECTION 90. AMENDATORY 2 O.S. 1991, Section 8-27, is amended to read as follows:

Section 8-27. 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 ~~and regulations~~ promulgated ~~thereunder,~~ thereto shall be subject to seizure on ~~complaint~~ petition of ~~any authorized agent of~~ the State Board of Agriculture to a court ~~of competent jurisdiction~~ in the locality in which the seed is located. ~~In the event that~~ If the court finds the seed to be in violation of this subarticle and orders the condemnation of ~~said~~ the seed, ~~it~~ the seed shall be destroyed, ~~or~~ reprocessed, relabeled, or ~~otherwise~~ disposed of in compliance with the laws of this state and as directed by the court~~; but in no instance shall the court order such disposition of such seed without first having given the claimant an opportunity to apply to the court for the release of the seed or permission to process or relabel it to bring it into compliance with this subarticle. The State Board of Agriculture is authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this subarticle or rules and regulations promulgated thereunder, notwithstanding the existence of other remedies at law. Such injunction shall be issued without bond~~.

SECTION 91. AMENDATORY 2 O.S. 1991, Section 8-29, is amended to read as follows:

Section 8-29. ~~(a) Any person or vendor violating any of the provisions of Sections 8-21 through 8-28 of this title or rules and regulations promulgated thereunder shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined not more than One Hundred Dollars ($100.00) for the first offense, and not more than Five Hundred Dollars ($500.00) for each subsequent offense.~~

~~(b) When the State Board of Agriculture or any authorized agent thereof shall find that a person has violated any of the provisions of Sections 8-21 through 8-28 of this title or rules and regulations promulgated thereunder, it or he may institute proceedings in a court of competent jurisdiction in the locality in which the~~

~~violation occurred, to have such person convicted therefor, or may file with the district attorney, with the view of prosecution, such evidence as may be deemed necessary.~~

~~(c) It shall be the duty of each district attorney to whom any violation is reported, to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.~~

~~(d)~~ 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 ~~thereof~~ to report, for prosecution, or for the institution of seizure proceedings, minor violations of Sections 8-21 through 8-28 of this title when ~~it is believed~~ the Board determines that the public interest will best be served by a suitable notice of violation or written warning ~~in writing~~.

~~(e)~~ 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.

SECTION 92. AMENDATORY 2 O.S. 1991, Section 8-41.3, as amended by Section 1, Chapter 163, O.S.L. 1995 (2 O.S. Supp. 1999, Section 8-41.3), is amended to read as follows:

Section 8-41.3 ~~When~~ As used in the Oklahoma Commercial Feed Law ~~the term~~:

1. ~~"Person" includes individual, partnership, corporation, association or other legal entity;~~

~~2. "Distribute" means to offer for sale, sell, exchange, barter, supply, furnish, or otherwise provide commercial feed;~~

~~3. "Distributor" means any person who distributes;~~

~~4. "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 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. Provided further, that commodities, such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when such commodities, compounds, or substances are not intermixed or mixed with other materials, and are not adulterated within the meaning of Section 8-41.7 of this title, shall be exempt from this definition and from the provisions of this act;~~

~~5. "Feed ingredient" means each of the constituent materials making up a commercial feed;~~

~~6. "Mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients;~~

~~7. "Drug" means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and articles other than feed intended to affect the structure or any function of the animal body;~~

~~8. "Customer-formula feed" means commercial feed which consists of a mixture of commercial feeds and/or feed ingredients each batch of which is manufactured according to the specific instructions of the final purchaser;~~

~~9. "Manufacture" means to grind, mix or blend, or further process a commercial feed for distribution;~~

~~10. "Brand name" means any word, name, symbol, or device, or any combination thereof, identifying the commercial feed of a distributor or registrant and distinguishing it from that of others;~~

~~11. "Product name" means the name of the commercial feed which identifies it as to kind, class, or specific use;~~

~~12. "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;~~

~~13. "Labeling" means all labels and other written, printed, or graphic matter (1) upon a commercial feed or any of its containers or wrapper or (2) accompanying such commercial feed;~~

~~14. "Ton" means a net weight of two thousand (2,000) pounds avoirdupois;~~

~~15. "Percent" or "percentages" means percentages by weights;~~

~~16. "Official sample" means a sample of feed taken by the Board or its agent in accordance with the provisions of subsections C or D of Section 8-41.11 of this title;~~

~~17. "Contract feeder" means a person who as an independent contractor feeds animals pursuant to a contract whereby such feed is supplied, furnished, or otherwise provided to such person and whereby such person's remuneration is determined all or in part by feed consumption, mortality, profits, or amount or quality of product;~~

~~18. "Pet food" means any commercial feed prepared and distributed for consumption by dogs and cats;~~

~~19. "Pet" means any domesticated animal normally maintained in or near the household of the owner thereof;~~

~~20. "Specialty pet food" means any commercial feed prepared and distributed for consumption by specialty pets;~~

~~21. "Specialty pet" means any domesticated animal pet normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes and turtles; and~~

~~22. "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~~ "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 renumeration 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.

SECTION 93. AMENDATORY 2 O.S. 1991, Section 8-41.4, as amended by Section 2, Chapter 163, O.S.L. 1995 (2 O.S. Supp. 1999, Section 8-41.4), is amended to read as follows:

Section 8-41.4 A. ~~No person shall sell, offer,~~ 1. Valid licenses are required by all persons whose name appears on the label or invoice as the guarantor manufacturing or ~~expose for sale or distribute in this state any~~ distributing of a commercial feed

~~unless such person holds a valid license~~ product in this state. ~~Each~~ 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 ~~shall be~~ is required of ~~persons distributing~~ a person retailing or ~~selling only packages or containers of any other licensed person as packaged and~~ wholesaling commercial feed labeled and guaranteed by ~~the person and whose name and address appear on the label as required in Section 8-41.5 of this title~~ another manufacturer. Any out-of-state person who has no distribution facility within this state shall obtain a license for ~~such~~ the entity's principal out-of-state office if ~~such~~ 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 ~~prescribed and~~ furnished by the State Board of Agriculture. ~~The application shall be accompanied by an annual license fee established by the Board.~~

3. The Board may establish an annual fee for licensing distributors pursuant to the provisions of the Oklahoma Commercial Feed Law. The maximum license fee shall not exceed Twenty Dollars ($20.00), but in no case shall the fee exceed the reasonable costs of review and inspection services rendered by the Department in connection with implementing the provisions of the Oklahoma Commercial Feed Law. The Board shall follow the procedures required by ~~Article I of~~ the Administrative Procedures Act for promulgation of rules in establishing the licensing fees.

4. Licenses shall be renewed ~~annually on or before July 1~~ on a date to be determined by the Board. Commercial feed license renewal applications received ~~after July 15~~ 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 ~~issued hereunder~~ may be suspended, canceled, revoked, ~~refused issue,~~ or refused reissue by the Board after ~~a~~ notice and opportunity for a hearing has been given to the holder of the license in accordance with the Administrative Procedures Act~~, Section 250 et seq. of Title 75 of the Oklahoma Statutes, and opportunity to be heard has been given to the holder of the license~~. Notice ~~thereof~~ 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. ~~Such~~ 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. ~~Such request shall not be construed as a registration procedure.~~

SECTION 94. AMENDATORY 2 O.S. 1991, Section 8-41.5, as amended by Section 3, Chapter 163, O.S.L. 1995 (2 O.S. Supp. 1999, Section 8-41.5), is amended to read as follows:

Section 8-41.5 A commercial feed shall be labeled as follows:

1. ~~In case of a~~ A commercial feed, except a customer-formula feed, ~~it~~ 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 ~~regulation~~ 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. ~~Provided, that the~~ The Board by ~~regulation~~ rule may permit the use of a collective term for a group of ingredients which perform a similar function, or they may exempt ~~such~~ commercial feeds, or any group ~~thereof~~, from this requirement of an ingredient statement if they find that ~~such~~ 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 ~~such~~ other feeds as the Board may require ~~by regulation as necessary~~ for their safe and effective use, and

g. ~~such~~ precautionary statements ~~as~~ the Board ~~by regulation~~ 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. ~~In the case of a~~ A customer-formula feed~~, it~~ 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, ~~and~~ the net weight of each commercial feed used in the mixture, and the net weight of each ~~other~~ ingredient used,

e. adequate directions for use for all customer-formula feeds containing drugs and for ~~such~~ other feeds ~~as~~ the Board may require ~~by regulation as necessary~~ for their safe and effective use,

f. the direction for use and precautionary statements as required by ~~regulations promulgated by~~ the Board ~~under authority of this act~~, 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 ~~regulations~~ rules promulgated by the Board ~~under authority of this act~~.

SECTION 95. AMENDATORY 2 O.S. 1991, Section 8-41.6, is amended to read as follows:

Section 8-41.6 A commercial feed shall be ~~deemed to be~~ misbranded if:

1. ~~If its~~ Its labeling is false or misleading in any particular;

2. ~~If it~~ It is distributed under the name of another commercial feed;

3. ~~If it~~ It is not labeled as required in Section ~~5~~ 8-41.5 of this ~~act~~ title;

4. ~~If it~~ 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 ~~such~~ the commercial feed or feed ingredient conforms to the definition, if any, prescribed ~~by regulation~~ by the State Board of Agriculture; and

5. ~~If any~~ Any word, statement, or other information required by ~~or under authority of~~ this ~~act~~ subarticle to appear on the label or 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~~ purchasing and ~~use~~ using the product.

SECTION 96. AMENDATORY 2 O.S. 1991, Section 8-41.7, as amended by Section 4, Chapter 163, O.S.L. 1995 (2 O.S. Supp. 1999, Section 8-41.7), is amended to read as follows:

Section 8-41.7 A commercial feed shall be ~~deemed to be~~ adulterated if:

1. a. ~~if it bears or~~ it contains any poisonous or deleterious substance which may render it injurious to health~~; but in case~~. If the substance is not an added substance, ~~such~~ the commercial feed shall not be considered adulterated under this subsection if the quantity of ~~such~~ the substance in ~~such~~ the commercial feed does not ordinarily render it injurious to health when utilized according to label and/or labeling directions, or

b. ~~if it bears or~~ 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:

~~(i)~~ (1) a pesticide chemical in or on a raw agricultural commodity; or

~~(ii)~~ (2) a food additive~~)~~, or

c. ~~if~~ it is, or ~~it bears or~~ contains, any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act, or

d. ~~if~~ 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 ~~in conformity with~~ pursuant to an exemption ~~granted~~ or a tolerance ~~prescribed~~ under Section 408 of the Federal Food, Drug, and Cosmetic Act and ~~such~~ the raw agricultural commodity has been subjected to processing ~~such as~~ similar to canning, cooking, freezing, dehydrating, or milling, the residue of ~~such~~ the pesticide chemical remaining in or on ~~such~~ the processed feed shall not be deemed unsafe if ~~such~~:

(1) the residue ~~in or on the raw agricultural commodity~~ has been removed to the extent possible in good manufacturing practice, and

(2) the concentration of ~~such~~ the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of ~~such~~ 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. ~~if~~ it is~~,~~ or ~~it bears or~~ contains~~,~~ any color additive which is unsafe within the meaning of Section 706 of the Federal Food, Drug, and Cosmetic Act;

2. ~~If any~~ Any valuable constituent has been in whole or in part omitted or abstracted ~~therefrom~~ or any less valuable substance substituted ~~therefor~~;

3. ~~If its~~ Its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling;

4. ~~If it~~ 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 ~~regulations~~ rules promulgated by the State Board of Agriculture to assure that the drug meets the requirement of this ~~act~~ 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 ~~such~~ the ~~regulations~~ rules, the Board shall adopt the current good manufacturing practice regulations ~~rules~~ 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 ~~which~~ the Board shall establish ~~by authority of Section 8-28 of this title~~.

SECTION 97. AMENDATORY 2 O.S. 1991, Section 8-41.8, as amended by Section 5, Chapter 163, O.S.L. 1995 (2 O.S. Supp. 1999, Section 8-41.8), is amended to read as follows:

Section 8-41.8 The following acts ~~and the causing thereof within the State of Oklahoma~~ are ~~hereby~~ 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 ~~such as~~ 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 ~~F~~ 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.

SECTION 98. AMENDATORY 2 O.S. 1991, Section 8-41.9, as amended by Section 6, Chapter 163, O.S.L. 1995 (2 O.S. Supp. 1999, Section 8-41.9), is amended to read as follows:

Section 8-41.9 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 ~~therein~~; 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 ~~such~~ the fee shall:

1. File, not later than the last day of January and July of each year, a semi-annual statement~~, setting forth~~ listing the number of net tons of commercial feeds distributed in this state during the preceding semi-annual period; and upon filing ~~such~~ 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 ~~such~~ records ~~as may be necessary or~~ 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 ~~such~~ 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 ~~as provided herein~~ shall constitute sufficient cause for the cancellation of the commercial feed license.

C. Fees collected shall ~~constitute a fund for~~ be deposited with the ~~payment~~ State Department of ~~the costs of inspection, sampling, and analysis, and other expenses necessary for the administration of this act~~ Agriculture Revolving Fund.

D. 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 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.

SECTION 99. AMENDATORY 2 O.S. 1991, Section 8-41.12, as amended by Section 8, Chapter 163, O.S.L. 1995 (2 O.S. Supp. 1999, Section 8-41.12), is amended to read as follows:

Section 8-41.12 A. "Stop Sale" orders: When the State Board of Agriculture ~~or its authorized agent~~ has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this act or ~~any of the prescribed regulations under this act~~ 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 ~~so~~ withdrawn when ~~said provisions and regulations~~ all requirements have been ~~complied with~~ 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 ~~said provisions and regulations~~ the law shall be subject to seizure on complaint of the Board to a court ~~of competent jurisdiction~~ 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 ~~act~~ 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. ~~Provided, that in~~ 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 ~~act~~ subarticle.

SECTION 100. AMENDATORY 2 O.S. 1991, Section 8-41.13, is amended to read as follows:

Section 8-41.13 A. ~~Any person convicted of violating any of the provisions of this act or who shall impede, hinder, or otherwise prevent, or attempt to prevent, the State Board of Agriculture or its duly authorized agent in performance of his duty in connection with the provisions of this act, shall be adjudged guilty of a misdemeanor and shall be subject to a fine of Five Hundred Dollars~~

~~($500.00) for the first offense and One Thousand Dollars ($1,000.00) for each subsequent offense.~~

~~B.~~ Nothing in this ~~act~~ 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 ~~act~~ subarticle, or when the public interest will best be served by a suitable notice of violation or written warning ~~in writing~~.

~~C. It shall be the duty of each district attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the Board reports a violation for such prosecution, an opportunity shall be given to the distributor to present his view to the Board.~~

~~D. The Board is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this act or any rule or regulation promulgated under this act notwithstanding the existence of other remedies at law.~~

~~E.~~ B. Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this ~~act~~ subarticle may within forty-five (45) days ~~thereafter~~ bring action in the Oklahoma County District Court for judicial review ~~of such actions~~. ~~The form of the proceeding shall comply with the Oklahoma Administrative Procedures Act, or in the silence thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunctions.~~

~~F.~~ C. Any person who uses ~~to his own~~ 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 officers of the Board (appropriate departments of this state),~~ or ~~to~~ the courts when relevant in any judicial proceeding, ~~any information acquired under the authority of this act, concerning any method, records, formulations, or processes, which as a trade secret is entitled to protection,~~ is guilty of a misdemeanor. ~~Provided, that this~~ This prohibition shall not ~~be deemed as prohibiting~~ prohibit the Board~~, or his duly authorized agent,~~ 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.

SECTION 101. AMENDATORY 2 O.S. 1991, Section 8-41.15, as amended by Section 9, Chapter 163, O.S.L. 1995 (2 O.S. Supp. 1999, Section 8-41.15), is amended to read as follows:

Section 8-41.15 The State Board of Agriculture may publish ~~at least annually, in such forms as it may deem proper,~~ information concerning the sales of commercial feeds, together with ~~such~~ 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. ~~Provided, that the~~ The information concerning production and use of commercial feed shall not disclose the operations of any person.

SECTION 102. AMENDATORY Section 249, Chapter 145, O.S.L. 1993, as last amended by Section 12, Chapter 413, O.S.L. 1999 (2 O.S. Supp. 1999, Section 8-41.16), is amended to read as follows:

Section 8-41.16 The Department of Environmental Quality shall have environmental jurisdiction over:

1. 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~~ mills, and other agricultural products,

   b. slaughterhouses, but not including feedlots at such 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 ~~such~~ the facilities; and

2. Facilities which store grain, feed, seed, fertilizer, and agricultural chemicals that are required by federal regulations to obtain a federal National Pollutant Discharge Elimination System permit for storm water runoff. Storm water runoff shall only be subject to the jurisdiction of the Department of Environmental Quality with respect to such storm water discharges.

Any point source discharge related to agriculture, as specified in paragraph 1 of subsection D of Section 1-3-101 of Title 27A of the Oklahoma Statutes, which require a federal National Pollutant Discharge Elimination Systems permit and which are not specified under paragraphs 1 and 2 of this section as being subject to the jurisdiction of the Department of Environmental Quality shall continue to be subject to the direct jurisdiction of the federal Environmental Protection Agency for issuance and enforcement of ~~such~~ this permit and shall not be required to be permitted by the Department of Environmental Quality or the Department of Agriculture.

SECTION 103. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-77.1 of Title 2, unless there is created a duplication in numbering, reads as follows:

Sections 105 through 121 of this subarticle shall be known and may be cited as the “Oklahoma Fertilizer Act”.

SECTION 104. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-77.2 of Title 2, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Fertilizer Act shall be administered by the State Board of Agriculture.

SECTION 105. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-77.3 of Title 2, unless there is created a duplication in numbering, reads as follows:

When 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 commercial fertilizer;

3. “Bulk fertilizer” means a fertilizer distributed in a non-packaged form;

4. “Custom blend” means a fertilizer formulated according to specifications furnished by the final consumer;

5. “Custom blender” means a person who mixes or commingles commercial fertilizer into a custom blend and who distributes the special blend. 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;

6. “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;

7. “Distribute” means to import, consign, manufacture, blend, offer for sale, sell, barter, or supply fertilizer in this state;

8. “Distributor” means any person who distributes fertilizer;

9. “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;

10. "Fertilizer dealer" means any person operating a business that is engaged in the distribution or sale of a commercial fertilizer. The term “fertilizer dealer” shall not include an ultimate consumer who is engaged in the physical act of application of a commercial fertilizer or a retail store selling only bagged registered commercial fertilizer;

11. “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 of total nitrogen, available phosphate, and soluble potash. Fertilizer materials, bone meal, manures, and similar materials may be guaranteed in fractional units;

12. “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;

13. “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 commercial fertilizer;

14. “Investigational allowance” means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of fertilizer;

15. “Label” means the display of all written, printed, or graphic matter, upon the immediate container, or a statement accompanying a fertilizer;

16. “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 a fertilizer;

17. “Licensee” means the person receiving a license to distribute a fertilizer under the provisions of the Oklahoma Fertilizer Act;

18. “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;

19. “Mixed fertilizer” means a fertilizer containing any combination or mixture of fertilizer materials;

20. “Official sample” means any sample of fertilizer taken by an authorized agent of the Board;

21. “Percent” or “percentage” means the portion of each hundred units of weight;

22. “Primary nutrient” means total nitrogen, available phosphate, and soluble potash;

23. “Registrant” means the person registering fertilizer under the provisions of the Oklahoma Fertilizer Act;

24. “Specialty fertilizer” means a fertilizer distributed for non-farm use;

25. “Ton” means a net weight of two thousand (2,000) pounds avoirdupois; and

26. “Unmanipulated manures” means substances composed primarily of excreta, plant remains, or mixtures of these substances which have not been processed in any manner.

SECTION 106. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-77.4 of Title 2, unless there is created a duplication in numbering, reads as follows:

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 warrantees or guarantees of the contents of the manures other than the animal sources of the manures.

SECTION 107. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-77.5 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The annual fee for persons operating a business engaged in the distribution or sale of a commercial fertilizer shall be Fifty Dollars ($50.00) and expire on a date to be determined by the State Board of Agriculture.

B. Any person operating a business that is engaged in the distribution, or sale of a commercial fertilizer shall obtain a license from the Board for each business location. The provisions of this subsection shall not apply to the ultimate consumer engaged in the physical act of application of a commercial fertilizer or to a retail store selling only bagged registered commercial fertilizer.

C. An application for license shall include:

1. The name and address of licensee; and

2. The name and address of each distribution point in the state.

The licensee shall inform the Board in writing of additional distribution points established during the period of the license.

D. No person shall distribute in this state a commercial or specialty fertilizer until it is registered with the Board by the distributor whose name appears on the label. 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. Registrations shall be permanent unless cancelled by the registrant or by the Board.

E. 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.

F. An application for registration shall include the following:

1. The brand and grade;

2. The guaranteed analysis;

3. Name and address of the registrant; and

4. Net weight for packaged fertilizer.

SECTION 108. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-77.6 of Title 2, unless there is created a duplication in numbering, reads as follows:

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.

SECTION 109. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-77.7 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. An inspection fee of sixty-five ($0.65) cents per ton of which thirty cents ($0.30) per ton shall be forwarded directly to a special Soil Fertility Research Account in the Plant and Soil Sciences Department of the Division of Agricultural Sciences and Natural Resources at Oklahoma State University for the sole purpose of conducting soil fertility research involving groundwater 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, April, July, and October of each year, a quarterly statement under oath, setting forth the number of net tons of commercial fertilizer distributed during the preceding three (3) calendar months. The inspection fee and tonnage report shall be due within thirty (30) days following the close of the filing period and upon return of the statement the licensee shall pay the inspection fee. If no fertilizer was sold or distributed in this state for the quarter, the registrant shall submit a statement reflecting that information and shall remit a minimum fee of Five Dollars ($5.00). If the inspection fee and tonnage report is not filed and the payment of 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 Five Dollars ($5.00), shall be assessed and added to the amount due.

C. Sales or exchanges between importers, manufacturers, distributors, registrants, or licensees are exempt.

D. When more than one person is involved in the distribution of a fertilizer, the last person who distributed the fertilizer to a 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.

E. 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.

SECTION 110. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-77.8 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Each distributor or registrant distributing and selling fertilizer to a licensee, retailer, or final consumer shall furnish the State Board of Agriculture a report showing the county of the consignee, the amounts in tons of each grade of fertilizer and if the fertilizer was distributed in bags, bulk, or liquid. This information shall be reported by submitting a summary report approved by the Board on or before the 15th day of each month covering shipments made during the previous month.

B. 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.

C. Each registrant, distributor, or manufacturer shall keep accurate records of the tonnage of commercial fertilizer distributed in this state.

SECTION 111. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-77.9 of Title 2, unless there is created a duplication in numbering, reads as follows:

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.

SECTION 112. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-77.10 of Title 2, unless there is created a duplication in numbering, reads as follows:

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.

SECTION 113. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-77.11 of Title 2, unless there is created a duplication in numbering, reads as follows:

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.

SECTION 114. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-77.12 of Title 2, unless there is created a duplication in numbering, reads as follows:

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.

SECTION 115. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-77.13 of Title 2, unless there is created a duplication in numbering, reads as follows:

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.

SECTION 116. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-77.14 of Title 2, unless there is created a duplication in numbering, reads as follows:

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.

SECTION 117. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-77.15 of Title 2, unless there is created a duplication in numbering, reads as follows:

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. (1) commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mills, and other agricultural products,

(2) slaughterhouses, but not including feedlots at such 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 the facilities, and

(4)

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

2. Any point source discharge related to agriculture, as specified in paragraph 1 of subsection D of Section 1-3-101 of Title 27A of the Oklahoma Statutes, which require a federal National Pollutant Discharge Elimination Systems permit and which are not specified under paragraph 1 of this subsection as being subject to the jurisdiction of the Department of Environmental Quality shall continue to be subject to the direct jurisdiction of the federal Environmental Protection Agency for issuance and enforcement of this permit and shall not be required to be permitted by the Department of Environmental Quality or the Department of Agriculture.

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.

SECTION 118. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-77.16 of Title 2, unless there is created a duplication in numbering, reads as follows:

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.

SECTION 119. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-77.17 of Title 2, unless there is created a duplication in numbering, reads as follows:

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.

SECTION 120. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-77.18 of Title 2, unless there is created a duplication in numbering, reads as follows:

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.

SECTION 121. AMENDATORY 2 O.S. 1991, Section 8-91, is amended to read as follows:

Section 8-91. When used in this subarticle:

~~(a) The term "person" shall include any individual, partnership, corporation, company, society or association.~~

~~(b) The term "weed-infested material" shall include feeds, grain or grains, screenings, hay, bedding, fertilizer, or any other material (except agricultural, vegetable, lawn, or flower seed) containing any seeds, root stalks or reproductive portions of noxious weeds.~~

~~(c) The term "labeling" shall include any label or other written, printed or graphic representation, in any form whatsoever, accompanying and pertaining to any weed-infested material whether in bulk or in containers, and shall include invoices.~~

~~(d) The term "advertisement" shall mean and include any representation, other than that or those on the label and/or invoice, disseminated in any manner or by any means, relating to weed-infested material within the purview of this subarticle.~~

~~(e) The term "noxious weeds" shall mean bindweed and such other weeds declared to be noxious by the State Board of Agriculture after public hearing~~ 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.

SECTION 122. AMENDATORY 2 O.S. 1991, Section 8-92, is amended to read as follows:

Section 8-92. ~~(a)~~ A. It shall be unlawful for any person to sell, offer for sale, or knowingly transport~~,~~ within this state any weed-infested material:

~~(1)~~ 1. Bearing a false or misleading label and/or invoice~~.~~;

~~(2) Pertaining to which there has been~~ 2. Bearing a false or misleading statement~~.~~ regarding absence or presence of noxious weeds; and

~~(3)~~ 3. Containing any seeds, root stalks, or reproductive portions of noxious weeds.

~~(b)~~ B. It shall be unlawful for any person within this state:

~~(1)~~ 1. To detach, alter, deface, or destroy any label or invoice provided for in this subarticle or rules ~~and regulations made thereunder,~~ or to alter or substitute weed-infested material that may in any manner defeat the purpose of this subarticle~~.~~;

~~(2)~~ 2. To disseminate any false or misleading advertisement concerning weed-infested material in any manner ~~or by any means.~~;

~~(3)~~ 3. To hinder or obstruct~~, in any way whatsoever,~~ the State Board of Agriculture ~~or any of its authorized agents or representatives~~ in the performance of ~~their~~ its duties and functions under the provisions of this subarticle~~.~~; and

~~(4)~~ 4. To fail to comply with a "stop-sale" order made ~~under or~~ pursuant to the provisions of this subarticle.

SECTION 123. AMENDATORY 2 O.S. 1991, Section 8-93, is amended to read as follows:

Section 8-93. A. The provisions of the preceding section shall not apply to~~: (a) Weed-infested~~ weed-infested material in storage in, or consigned to, a processing establishment for cleaning or processing, or weed-infested material transported by ~~a farmer~~ producers from ~~his farm~~ their farms to an elevator, or from farm-to-market. ~~Provided, that any~~ 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. ~~Provided, further, that no~~

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 ~~such~~ a vehicle or containers ~~as will~~ adequate to prevent the leaking or scattering ~~thereof~~ of the weed-infested material. ~~Provided, further, that in~~ In no instance shall weed-infested material be sold to the ultimate consumer (including a livestock feeder) until ~~such~~ the material shall have been processed to destroy the viability of the noxious weed-infested content ~~thereof~~.

~~(b) Weed seed-infested material included in agricultural, vegetable, lawn or flower seed.~~

SECTION 124. AMENDATORY 2 O.S. 1991, Section 8-95, is amended to read as follows:

Section 8-95. 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 ~~complaint~~ petition of the State Board of Agriculture, ~~or any of its authorized agents,~~ to the district court of the county in which the weed-infested material is found or is located~~, and if such~~. 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 ~~such~~ the weed-infested material and directing that the ~~same~~ material be denatured, processed, destroyed, or ~~otherwise~~ disposed of~~, but no such order shall be entered until the owner or custodian of such weed-infested material has been notified and has been given an opportunity to be heard or to have the weed-infested material processed so as to bring it into~~ in compliance with the provisions of this subarticle.

ARTICLE 10. POULTRY AND POULTRY PRODUCTS

A. Poultry ~~Division of State Department of Agriculture~~ Improvement Plan.

SECTION 125. AMENDATORY 2 O.S. 1991, Section 10-2, is amended to read as follows:

Section 10-2. 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 ~~and the National Turkey Improvement Plan, as recognized by the United States Department of Agriculture, and shall be the official state agency to cooperate with the United States Department of Agriculture, or any other federal agency, or any other state, under the provisions of H.R. 4278, Public Law 425, 78th Congress (Chapter 412, United States Statutes at Large, 78th Congress, Second Session, 1944 - Part 1), or any other federal law or state law pertaining to the improvement of poultry, poultry products and hatcheries~~.

SECTION 126. AMENDATORY Section 17, Chapter 232, O.S.L. 1998 (2 O.S. Supp. 1999, Section 10-9.17), is amended to read as follows:

Section 10-9.17 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. <u>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.</u>

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.

SECTION 127. AMENDATORY Section 19, Chapter 232, O.S.L. 1998 (2 O.S. Supp. 1999, Section 10-9.19), is amended to read as follows:

Section 10-9.19 ~~A.~~ 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 ~~Section 7 of this act~~ 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 State Department of Agriculture 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.

~~B. 1. Every commercial and private poultry waste applicator shall keep an accurate record pertaining to land application of poultry waste, which, as a minimum, shall show:~~

~~a. the time and place of each application of poultry waste,~~

~~b. name and address of poultry waste applicator,~~

~~c. name and address of person for whom used,~~

~~d. legal description of land where used,~~

~~e. date applied,~~

~~f. soil test, and~~

~~g. such other information as may be required by the State Board of Agriculture.~~

~~2. Such records shall be kept intact at the principal business location in this state of the poultry waste applicator for at least five (5) years and copies shall be furnished to any authorized agent of the Board, upon request, within a reasonable time.~~

~~C. Every person who authorizes or allows poultry waste to be land applied to property owned by or rented to such person shall keep all the records required of poultry waste applicators by subsection B of this section. Such records shall be kept for at least five (5) years.~~

~~D. It shall be the duty of the Board to audit the maintenance of such records as it deems necessary to carry out the provisions of the Oklahoma Poultry Waste Applicators Certification Act.~~

SECTION 128. AMENDATORY Section 21, Chapter 232, O.S.L. 1998 (2 O.S. Supp. 1999, Section 10-9.21), is amended to read as follows:

Section 10-9.21 A. Any certificate issued pursuant to the Oklahoma Poultry Waste Applicators Certification Act may be suspended, canceled, denied, or revoked by the State Department of Agriculture 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 Department, 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 ~~maintain records~~ 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; or

8. Has been convicted in any court of a violation of the Oklahoma Poultry Waste Applicators Certification Act.

B. Poultry Shows

SECTION 129. AMENDATORY 2 O.S. 1991, Section 10-21, as amended by Section 1, Chapter 126, O.S.L. 1994 (2 O.S. Supp. 1999, Section 10-21), is amended to read as follows:

Section 10-21. 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 ~~in accordance with rules and regulations promulgated by the State Board of Agriculture~~. ~~Such~~ The show shall be held each year at a central point in the State of Oklahoma designated by the Oklahoma State Poultry Federation~~, in December of each year, and any or all of the expenses thereof~~. Expenses may be paid from any funds that have been made available for ~~such~~ that purpose to the State Department of Agriculture or the State Board of Agriculture~~,~~ on claims approved by the ~~State~~ Board ~~of Agriculture~~. The State Poultry Show shall be divided into two divisions~~, as follows~~:

1. Adult or Open Division. Any person raising poultry may exhibit in ~~such~~ the Division. Entry fees and premiums shall be fixed by the ~~State~~ Board ~~of Agriculture~~ 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 ~~such~~ the division shall be a boy or girl between the ages of nine (9) and nineteen (19) years~~, and participation~~. 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 ~~such~~ that district, county, and the state, respectively~~, between the ages hereinabove specified~~.

SECTION 130. AMENDATORY 2 O.S. 1991, Section 10-23, as amended by Section 2, Chapter 126, O.S.L. 1994 (2 O.S. Supp. 1999, Section 10-23), is amended to read as follows:

Section 10-23. 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 ~~such~~ the fund shall be approved by the board of county commissioners.

SECTION 131. AMENDATORY 2 O.S. 1991, Section 10-25, is amended to read as follows:

Section 10-25. 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 ~~such~~ the show~~; and the~~. The remainder shall be used to pay premiums and to defray expenses for the adult or open division ~~of such show~~.

SECTION 132. AMENDATORY 2 O.S. 1991, Section 10-26, as amended by Section 3, Chapter 126, O.S.L. 1994 (2 O.S. Supp. 1999, Section 10-26), is amended to read as follows:

Section 10-26. 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 ~~Future Farmers of America~~ FFA and 4-H Clubs, there is ~~hereby~~ established in the State of Oklahoma an annual state-wide broiler show. ~~Said~~ The show shall be organized and operated in cooperation with various recognized associations within the State of Oklahoma by the State Board of Agriculture ~~and shall be held annually~~.

SECTION 133. AMENDATORY 2 O.S. 1991, Section 10-27, is amended to read as follows:

Section 10-27. The State Board of Agriculture is ~~hereby~~ authorized to designate the exact time and place where ~~such~~ the state-wide broiler show shall be held and ~~is further authorized to~~ make ~~necessary~~ rules ~~and regulations~~ governing the operation of ~~said~~ the show~~, including~~ and the fixing of premiums to be paid to various exhibitors.

SECTION 134. AMENDATORY 2 O.S. 1991, Section 10-28, is amended to read as follows:

Section 10-28. A fee not to exceed Two Dollars ($2.00) per entry at each broiler show may be charged to all exhibitors~~; provided, however, that exhibitors~~. Exhibitors under the age of eighteen (18) shall be permitted to exhibit without ~~the~~ payment ~~of such fee~~.

SECTION 135. AMENDATORY 2 O.S. 1991, Section 10-30, is amended to read as follows:

Section 10-30. ~~It is further provided that a~~ A maximum of eighty-five percent (85%) of the funds appropriated ~~under~~ for the ~~provisions of this act~~ state-wide broiler show shall be used to pay premiums to junior exhibitors.

SECTION 136. REPEALER 2 O.S. 1991, Sections 3-1, 3-11, 3-12, 3-13, 3-14, 3-15, 3-16, 3-17, 3-18, 3-19, 3-20, 3-21, 3-22, 3-23, as amended by Section 16, Chapter 278, O.S.L. 1993, 3-24, 3-25, 3-26, 3-27, 3-28, 3-29, 3-30, 3-31, 3-51, 3-52, 3-61, 3-62, 3-63, as amended by Section 1, Chapter 231, O.S.L. 1999, 3-64, 3-65, 3-66, 3-67, 3-68, 3-69, 3-70, as amended by Section 1, Chapter 229, O.S.L. 1992, Section 248, Chapter 145, O.S.L. 1993, as last amended by Section 11, Chapter 413, O.S.L. 1999, 3-89, 3-90, 3-91, 3-92, 3-93, 3-94, 3-95, 3-96, 3-141, 3-142, 3-143, 3-144, 3-171, 3-201, 3-202, 3-203, 3-204, 3-205, 3-206, 3-207, 3-208, 3-209, 3-210, 3-271, 3-272, 3-273, 3-274, 3-275, 3-276, 3-277, 3-278, 5-71, 5-72, 5-73, 5-74, 5-75, 5-76, 5-77, 5-78, 5-79, 6-23, 6-24, 6-25, 6-26, 6-28, 6-103, 6-104, 6-105, 6-106, 6-121, as amended by Section 2, Chapter 296, O.S.L. 1992, 6-122, 6-123, 6-126, Sections 6 and 7, Chapter 75, O.S.L. 1996, 6-144, 6-148, 6-154, 6-156, 6-301, 8-1, 8-28, 8-41.10, 8-41.11, as amended by Section 7, Chapter 163, O.S.L. 1995, 8-41.14, 8-61, 8-61a, 8-62, 8-63, 8-64, 8-65, 8-66, 8-67, 8-68a, as last amended by Section 13, Chapter 413, O.S.L. 1999, 8-69, 8-70, 8-71, 8-72, 8-73, 8-74, 8-94, 8-96, 10-1, 10-41, 10-42, 10-61, 10-62, 10-63, 10-64, 10-65, 10-66, 10-67 and 10-68 (2 O.S. Supp. 1999,

Sections 3-23, 3-63, 3-70, 3-71, 6-121, 6-136, 6-137, 8-41.11 and 8-68a), 63 O.S. 1991, Sections 1-1301.18, as amended by Section 21, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994 and 1-1301.20, as amended by Section 23, Chapter 140, O.S.L. 1994, and as renumbered by Section 30, Chapter 140, O.S.L. 1994 (2 O.S. Supp. 1999, Sections 7-418 and 7-420), are hereby repealed.

SECTION 137. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 24th day of May, 2000.

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President of the Senate

Passed the House of Representatives the 25th day of May, 2000.

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Speaker of the House of Representatives