



STATE OF OKLAHOMA
OFFICE OF THE STATE AUDITOR & INSPECTOR

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**OKLAHOMA DEPARTMENT
OF AGRICULTURE, FOOD
AND FORESTRY**

AGRICULTURE ENVIRONMENTAL
MANAGEMENT SERVICES DIVISION

OCTOBER 1, 2003 THROUGH SEPTEMBER 30, 2004



JEFF A. MCMAHAN, CFE
OKLAHOMA STATE AUDITOR & INSPECTOR

**OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD AND FORESTRY**

**AGRICULTURE ENVIRONMENTAL
MANAGEMENT SERVICES DIVISION**

PERFORMANCE AUDIT

OCTOBER 1, 2003 THROUGH SEPTEMBER 30, 2004



STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

JEFF A. McMAHAN
State Auditor and Inspector

August 24, 2005

Terry Peach, Secretary of Agriculture
Department of Agriculture, Food and Forestry
2800 North Lincoln Blvd.
Oklahoma City, OK 73152

Transmitted herewith is the performance audit over the Agriculture Environmental Management Services Division of the Department of Agriculture, Food and Forestry for the period October 1, 2003, through September 30, 2004. The procedures we performed were at the request of the Secretary of Agriculture and in accordance with 74 O.S. 2001, § 213.2.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office during the course of the engagement.

The Office of the State Auditor and Inspector is committed to serving the public interest by providing independent oversight and issuing reports that serve as a management tool to the state to ensure a government which is accountable to the people of the State of Oklahoma.

Sincerely,

A handwritten signature in blue ink that reads "Jeff A. McMahan".

JEFF A. McMAHAN
State Auditor and Inspector

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OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

AGRICULTURE ENVIRONMENTAL MANAGEMENT SERVICES DIVISION PERFORMANCE AUDIT

Audit Summary



JEFF A. MCMAHAN, CFE

OFFICE OF THE STATE
AUDITOR & INSPECTOR

Why the audit was performed?

This performance audit was conducted pursuant to a request by the Secretary of Agriculture as provided for in 74 O.S. 2001, § 213.2.

The objectives of the audit were:

- I. Determine if the Concentrated Animal Feeding Operation (CAFO) case files within the Agriculture Environmental Management Services Division contain the required information to ensure compliance with the applicable laws and regulations.
- II. Determine if the Poultry Feeding Operation case files within the Agriculture Environmental Management Services Division contain the required information to ensure compliance with the applicable laws and regulations.
- III. Determine if the Poultry Waste Applicator case files within the Agriculture Environmental Management Services Division contain the required information to ensure compliance with the applicable laws and regulations.
- IV. Determine if the complaints made to the Agriculture Environmental Management Services Division were documented and resolved in accordance with the applicable laws and regulations

- The Agriculture Environmental Management Services (AEMS) division case files were very well organized and easy to following during our audit. Page 12
- Poultry growers should be issued violation points or fines if continuing professional education requirements are not met. Page 16
- Poultry Waste Applicators should not be issued applicator certificates unless all provisions of the Poultry Waste Applicator Certificate Act are met. Page 18.
- When complaints are received by the AEMS division, both the complainant and the operator should be notified in writing when the complaint is received and resolved. Page 23

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**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD AND FORESTRY
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BACKGROUND

In 1997, the Oklahoma Department of Agriculture and the Oklahoma State Legislature recognized the need for a division dedicated to protecting the state's soils and waters from animal waste. Concentrated Animal Feeding Operations (CAFOs) were becoming larger and more numerous across the state and the public was concerned about possible water contamination. The Water Quality Services Division of the Oklahoma Department of Agriculture was formed on July 1, 1997. On July 1, 2004, the Division was renamed as the Agriculture Environmental Management Services (AEMS) of the Oklahoma Department of Agriculture, Food and Forestry (ODAFF).

The Agriculture Environmental Management Services (AEMS) was created to help develop, coordinate and oversee environmental policies and programs. Among the division's chief responsibilities is the licensing and regulation of CAFOs. Specifically, the Concentrated Animal Feeding Operations Section licenses and inspects beef, swine and poultry breeding, growing and feeding facilities.

The division's mission is to develop and furnish assistance in the preparation and implementation of legislation, rules and regulations to provide protection for the waters of Oklahoma from agriculture pollution, while maintaining an environment compatible with agriculture production.

SCOPE

This audit was conducted pursuant to a request by the Secretary of Agriculture as provided for in 74 O.S. 2001, § 213.2 and was performed in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. The audit period is October 1, 2003 through September 30, 2004.

OBJECTIVES

We identified the following as our objectives:

- I. Determine if Concentrated Animal Feeding Operation (CAFOs) case files within the Agriculture Environmental Management Services (AEMS) Division contain the required information to ensure compliance with the applicable laws and regulations.
- II. Determine if Poultry Feeding Operation case files within the Agriculture Environmental Management Services (AEMS) Division contain the required information to ensure compliance with the applicable laws and regulations.
- III. Determine if Poultry Waste Applicator case files within the Agriculture Environmental Management Services (AEMS) Division contain the required information to ensure compliance with the applicable laws and regulations.
- IV. Determine if the complaints made to the Agriculture Environmental Management Services (AEMS) Division were documented and resolved in accordance with the applicable laws and regulations.

OBSERVATIONS AND RECOMMENDATIONS

I. Determine if the Concentrated Animal Feeding Operation (CAFO) case files within the Agriculture Environmental Management Services (AEMS) Division contain the required information to ensure compliance with applicable laws and regulations.

METHODOLOGY

Internal Controls for Concentrated Animal Feeding Operations were documented and considered through a review of the division's policies and procedures, surveys, and interviews with the division's staff. In addition to the internal controls, the following testing procedures were performed:

- Determine each CAFO case file contained the following information:
 - a CAFO application which includes the minimum information according to OAC 35:17-3-6.
 - when the application was submitted to ODAFF, all affected property owners were notified in accordance with OAC 35:17-3-8.
 - a license renewal form was submitted in accordance with OAC 35:17-3-8.
 - a hearing was conducted in accordance with OAC 35:17-3-9.
 - a Pollution Prevention Plan was developed in accordance with OAC 35:17-3-11.
 - an Animal Waste Management Plan was prepared in accordance with OAC 35:17-3-14.
 - an Odor Abatement Plan was prepared in accordance with OAC 35:17-3-15.
 - a Pest Management Plan was prepared in accordance with OAC 35:17-3-16.
 - a Carcass Disposal Plan was prepared in accordance with OAC 35:17-3-17.
- Determine if an annual inspection was conducted.
- Determine if violation points were issued in accordance with OAC 35:17-3-22.
- Review educational courses received and determine whether they are in accordance with O.S. 2 § 205H.1.

OBSERVATIONS

What is a CAFO?

According to O.S. 2§9-202.11, a Concentrated Animal Feeding Operation (CAFO) is a licensed feeding operation or an animal feeding operation that

confines and feeds a specified number of animals in the following categories:



- 1,000 slaughter and feeder cattle,
- 700 mature dairy cattle,
- 500 horses,
- 10,000 sheep or lambs,
- 55,000 turkeys,
- 5,000 ducks, or
- 1,000 animal units, and

pollutants are discharged into waters of the state.

A CAFO may also be defined as an animal feeding operation which meets the following criteria:

- ❖ more than the number of animals specified in any of the following categories are confined:
 - 300 slaughter or feeder cattle,
 - 200 mature dairy cattle, whether milk or dry cows.
 - 750 swine each weighing over 25 kilograms or approximately 55 pounds,
 - 3,000 weaned swine each weighing under 25 kilograms,
 - 150 horses,
 - 3,000 sheep or lambs,
 - 16,500 turkeys,
 - 30,000 laying hens or broilers, if the facility has continuous overflow watering,
 - 9,000 laying hens or broilers, if the facility has a liquid manure system,
 - 1,500 ducks, or
 - 300 animal units, and
- ❖ either one of the following conditions are met:
 - pollutants are discharged into waters of the state through an artificially constructed ditch, flushing system or other similar artificially constructed device, or
 - pollutants are discharged directly into navigable waters which originate outside of and pass over, across or through the facility or otherwise come into direct contact with the animals confined in the operation.

CAFOs have potential for serious impacts on water quality if not managed properly. The CAFO Act, which is administered by the Agriculture Environmental Management Services, is intended to provide the CAFO operators the necessary tools and information to be the best managers they can be.

What is the process to become a CAFO?

The process for becoming a CAFO was reviewed in statutes, policies and procedures and through discussions with AEMS personnel. The process is as follows:

- When applying for a new and/or expanding CAFO facility, the applicant must complete a Concentrated Animal Feeding Operation license application which shall at a minimum include:
 - Name and address of the owner of the facility.
 - Name and address of the animal feeding operation, including driving directions.
 - Name and address of the operator if other than the owner.



- Capacity in animal units and number and type of animal housed or confined.
- The name and address of each member with an ownership interest of ten percent or more.
- Environmental history of the past three years of any CAFO operations established or operated by the owner or any other operations with common ownership in Oklahoma or any other state.
- List of all environmental awards or citations received or pollution prevention or voluntary remediation efforts undertaken by the owner.
- Copy of deed, contract to purchase, option to purchase the proposed site of the facility, waste retention structures, and land application sites.
- A map of all property owners within one mile of the facility and waste retention structures and a corresponding mailing list.
- A plat with detailed information.
- All Licensed Animal Feeding Operations (LAFOs) shall submit an affidavit certifying compliance with applicable setbacks found in Sections 9-201.1 and 9-210.3 of Title 2 of the Oklahoma Statutes.
- If applicable, a copy of the written waiver by a property owner releasing specific setback requirements as provided by the Act.

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- Applications for Licensed Managed Feeding Operations (LMFOs) shall include an introductory narrative summary describing the facility and operation.
- Characterization of the physical and environmental setup of the facility.
- Report from an independent soil testing laboratory.
- LMFOs shall provide documentation relating to and verifying that a minimum of ten foot separation exists between the bottom of each waste retention structure and the highest annual or seasonal level of groundwater elevation at the waste retention structure site based on data available, including the perched water table and regional water table or aquifer.
- Laboratory test reports showing the amount of Nitrogen as Nitrate and total Phosphorous contained in the groundwater, surface water located at the facility site, and soil samples from each land application site.
- A Pollution Prevention Plan (PPP) which contains an Animal Waste Management Plan (AWMP), a carcass disposal plan, an erosion control plan, and Best Management Practices (BMP). Applications for LMFOs shall also include an Odor Abatement Plan (OAP), a Pest Management Plan (PMP), and any other plan required by the Department.
- A notarized sworn statement signed by the owner accepting full responsibility for properly closing all waste retention structures upon termination of the CAFO operation.
- All applications for LMFOs shall include a closure plan pursuant to OAR 35:17-3-25.
- A financial statement declaring the financial ability of an owner to operate an animal feeding operation with a liquid waste management system in order to comply with the surety requirements of the Act.
- A notarized certification signed by the person applying for the license.
- All documentation deemed necessary and requested by the Oklahoma Department of Agriculture to assure the quality of waters of the state are not compromised.

The CAFO license must be renewed every year and the renewal application shall be submitted prior to July 1 of each year. There is a renewal fee of \$10.00 for each CAFO license. In addition to the CAFO license fee, the owners of Licensed Managed Feeding Operations (LMFO) are also required to pay eighty cents (\$0.80) per licensed animal unit.



Do CAFOs receive annual inspections?

Pursuant to the Oklahoma Concentrated Animal Feeding Act, the AEMS Division is required to make at least one unannounced inspection annually. In addition to the Division's inspection, an inspection of the facility must also be performed by the owner annually.

Why are violation points issued?

Violation points are issued by the AEMS Division to assess points before suspending, revoking, or not renewing a CAFO license. The violation point system is to operate in addition to penalties provided for in the Oklahoma Concentrated Animal Feeding Act, and should not alter the authority of the ODAFF Board to revoke a license under other sections of the Act.

When any animal feeding operation accrues a total of fifteen or more points in a two year period, the license of the animal feeding operation is to be suspended, revoked, or not renewed by the Board. Reasons for which violations points are issued as listed at OAC 35:17-3-22 (2)(A).

What are the education requirements for CAFOs?

To ensure compliance with OAC 35:17-3-18, All employees who are responsible for work activities which relate to compliance are required to be regularly trained and informed of any information pertinent to the proper operation and maintenance of the facility and waste disposal. The training received, should inform all personnel of the general components and goals of the Pollution Prevention Plan (PPP). Training should also include but not be limited to the following topics:

- Proper operation and maintenance of waste retention structures, including proper water level maintenance.
- Land application of waste, proper operation, and maintenance of the facility.
- Good housekeeping and material management practices.
- Necessary record keeping requirements.
- Spill response and clean up.

The owner is responsible for determining how frequent training should be provided to personnel and the PPP should identify the periodic dates for training.

In addition, LMFOs with employees whose duties include treatment, storage, or application of animal waste are required to provide proof of certification for completion of formal education and training in the areas of waste management and odor control.

Where are the CAFOs located?

The State of Oklahoma has a total of 306 licensed CAFOs, which includes 315 total animal type facilities. The total animal type facilities can be greater than the total number of licensed CAFOs, because an operation can have multiple animal types under one license. There are four types of CAFO licenses, they are as follows:

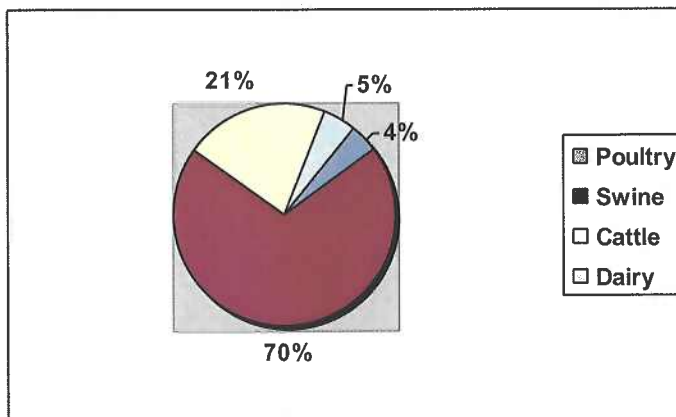
**There are 306
 licensed CAFOs in
 the State of
 Oklahoma.**

- Dairy,
- Cattle,
- Swine, and
- Poultry

The table below illustrates the total number of facilities by animal type.

Table 1 – Total Animal Type Facilities	
Type of Facility	Number of Facilities
Dairy	17
Cattle	67
Swine	217
Poultry	14
Total	315

In addition to the table illustrated above, the pie chart below illustrates the percentage of animal type facilities.



In reviewing the table and chart above the following observations were made:

- The majority of the licensed CAFOs are for swine facilities.
- The least amount of CAFO licenses are for poultry growers.

Also included is a map illustrating the locations of all CAFOs within the state, which can be seen in Appendix A of this report.

Testing Results

Based on a review of 25 case files, it appears that the Concentrated Animal Feeding Operation case files contain the required information to ensure compliance with applicable laws and regulations. We would like to commend the division for the organization of the case files. The case file layout was very helpful during the audit process. In addition, it appears that all required inspections were conducted and the required education classes were received. Also, because there were no instances of noncompliance noted, there appeared to be no reason for the AEMS Division to issue violation points.

II. Determine if the Poultry Feeding Operation case files within the Agriculture Environmental Management Services (AEMS) Division contain the required information to ensure compliance with applicable laws and regulations.

METHODOLOGY

Internal Controls for Poultry Feeding Operations were documented and considered through a review of the division's policies and procedures, surveys, and interviews with the division's staff. In addition to the internal controls, the following testing procedures were performed:

- Determine each Poultry Feeding Operation case file contains the following information:
 - a Poultry Feeding Operation application which includes the minimum information required by O.S. 2 § 10-9-5.
 - an annual registration in accordance with O.S. 2 § 10-9-4.
 - an approved Animal Waste Management Plan in accordance with OAC 35:17-5-3.
 - the Animal Waste Management Plan contains the minimum requirements according to OAC 35:17-5-5.
- Determine if an annual inspection was conducted in accordance with O.S. 2 § 10-9.10.
- Determine if violation points were issued in accordance with OAC 35:17-5-10.5.
- Review educational courses received and determine they are in accordance with O.S. 2 § 10-9.5.

OBSERVATIONS

What is a Poultry Feeding Operation?

Pursuant to the Poultry Feeding Operations Act found at O.S. 2 § 10-9.1, Poultry Feeding Operations are a property or facility where the following conditions are met:

- ❖ Poultry have been, or will be confined and fed or maintained for a total of forty-five (45) days or more in any twelve-month period,



- ❖ Crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the property or facility, and producing over ten (10) tons of poultry wastes per year.

The Poultry Feeding Operations program is designed to help control runoff and discharges from poultry waste and poultry feeding operations. The amount of waste applied to the land or removed from the operation is to be monitored by AEMS Division to ensure the beneficial use of the waste while also preventing adverse effects to the waters of the state of Oklahoma.



What is the process to become a Poultry Feeding Operation?

Each application should contain the following:

- ❖ Name and address of the owner and operator of the facility;
- ❖ Name and address of the poultry operation;
- ❖ Number and type of poultry housed or confined;
- ❖ Name and address of the integrator whose poultry will be raised by the poultry feeding operation;
- ❖ A diagram or map and legal description showing geographical location of the facility on which the perimeters of the facility are

- designated, location of waters of the state, including, but not limited to, drainage from the facility, poultry waste storage facilities and land application sites owned or leased by the applicant or which the applicant has contracted with for the application of poultry waste;
- ❖ A copy of the Animal Waste Management Plan, or proof of application for such plan, Best Management Practices or any other plans authorized by the AEMS Division; and
 - ❖ A statement of ownership.
 - If the applicant is a corporation, the name and address of the corporation and the name and address of each officer and registered agent of the corporation shall be included in the application.
 - If the applicant is a partnership or other legal entity, the name and address of each partner and stockholder with an ownership interest of ten percent (10%) or more shall be included in the statement.
 - The information contained in the statement of ownership shall be public information and shall be available upon request from the ODAFF Board;
 - ❖ The name and address of the person having day to day control of the operation, if such person is not the applicant and is acting as agent for the applicant;
 - ❖ An environmental history from the past three (3) years of any poultry feeding operation established and operated by the applicant or any other operation with common ownership in this state or any other state.
 - ❖ A copy of all records relating to the environmental history
 - ❖ Environmental awards or citations received or pollution prevention or voluntary remediation efforts undertaken by the applicant; and
 - ❖ Any other information or records to be required by the AEMS Division for purposes of implementing the Oklahoma Registered Poultry Feeding Operations Act or rules promulgated pursuant thereto.

Do Poultry Feeding Operation receive annual inspections?

Pursuant to the Oklahoma Registered Poultry Feeding Operations Act, the AEMS Division is required to make at least one inspection per calendar year of every registered poultry feeding operation.

Why are violation points issued?

In addition to the ODAFF enforcement authority, a violation point system should be used to assess points before designating a poultry feeding operation as a concentrated animal feeding operation which is subject to the Oklahoma Concentrated Animal Feeding Operation Act.

If any poultry feeding operation should accrue a total of fifteen or more violation points in any two year period, the poultry feeding operation should be designated a concentrated animal feeding operation and comply with all aspects of the Oklahoma Concentrated Animal Feeding Operation Act.

Reasons for which violation points are issued as listed at OAC 35:17-5-10.1(2) (A).

Where are Poultry Feeding Operations located?

There are 890 Poultry Feeding Operations in the State of Oklahoma

The State of Oklahoma has approximately 890 Poultry Feeding Operations. The operations are located in 19 of the 77 Oklahoma counties. These 890 Poultry Feeding Operations house approximately 58,901,547 birds. The table below illustrates the total number of birds and houses by county:

Table 2 -- Total Number of Birds and Houses by County			
County	Total Growers by County	Total Birds	Total Houses
Adair	65	7,004,200	350
Blaine	1	5,000	3
Cherokee	20	950,400	66
Choctaw	6	391,000	16
Craig	9	1,167,000	50
Creek	1	30,000	2
Delaware	174	9,893,770	577
Haskell	63	4,168,198	190
Latimer	4	167,000	11
LeFlore	241	17,607,944	765
Mayes	20	1,639,000	78
McIntosh	2	45,800	5
Muskogee	6	286,200	17
Okfuskee	1	4,400	1
Ottawa	28	2,772,800	140
Pittsburg	1	70,000	3
Pushmataha	2	30,000	3
Rogers	2	420,000	14
Sequoyah	18		40
Totals	890	58,901,547	2,925

A map detailing the locations of the poultry feeding operations is located in Appendix B of this report. In reviewing the map, it is evident that most operations are located throughout the southeastern part of the state.

What are the education requirements for Poultry Feeding Operators?

Pursuant to the Oklahoma Registered Poultry Feeding Operations Act, all operators of poultry feeding operations are required to attend educational courses on poultry waste handling.

All current and new operators should receive no less than nine hours of training in the first year and no less than three hours each year thereafter. Courses for poultry waste management should include the following topics:

- Environmental process relevant to protecting water quality in poultry production,

- Basic handling systems to manage poultry waste from all types of poultry operations,
- Nutrient management, including sampling procedures, application rate determination, equipment calibration, and record keeping,
- Relevant laws and rules applicable to poultry waste management in the State of Oklahoma, and
- Any other related subject as determined by Oklahoma State University in consultation with the AEMS Division.

Failure to obtain the required prerequisite and annual training and education is to be deemed a violation of the Oklahoma Registered Poultry Feeding Operations Act.

Testing Results?

Based on a review of 45 case files, it appears that the Poultry Feeding Operation case files contain the required documentation to ensure compliance with applicable laws and regulations. However, we did note ten instances where the educational requirements according to O.S. 2§10-9.5(F), were not met, and it appeared there were no violation points or fines issued.

RECOMMENDATION

We recommend the AEMS Division review current policies and procedures to ensure they are adequate to facilitate compliance with the applicable laws and regulations regarding educational requirements and the issuing of violation points. We recommend that violation points and/or fines be issued to the operator if educational requirements are not met in a timely manner. In addition, we recommend that all poultry operators be informed at the time of inspections of the importance of receiving the required hours of continuing education, which helps ensure compliance with the applicable laws and regulations relating to poultry feeding operations.

VIEWS OF RESPONSIBLE OFFICIALS

The legal staff will be reviewing educational requirements to make sure they are in compliance and approving the assessing of violation points along with fines.

III. Determine if the Poultry Waste Applicator case files within the Agriculture Environmental Management Services (AEMS) Division contain the required information to ensure compliance with applicable laws and regulations.

METHODOLOGY

Internal Controls for Poultry Waste Applicators were documented and considered through a review of the division's policies and procedures, surveys, and interviews with the division's staff. In addition to the internal controls, the following testing procedures were performed:

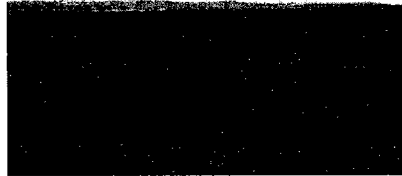
- Determine each Poultry Waste Applicator

- Is certified in accordance with O.S. 2§ 10-9.17.
- Submits an annual report to ODAFF in accordance with O.S. 2 § 10-9.18.

OBSERVATIONS

What is a Poultry Waste Applicator?

The Poultry Waste Applicator program is administered by the ODAFF and should be enforced by the provisions of the Oklahoma Poultry Waste Applicators Certification Act by ensuring that the application of poultry waste, work performance, certification of the applicators, procedures and best management practices are followed as provided in the Act.



There are two different types of poultry waste applicators, Commercial Applicators and Private Applicators. The definition of a Commercial and Private applicators according to O.S. 2§10-9.1, is as follows:

- A commercial poultry waste applicator is any person who engages in commercial land application of more than ten (10) tons of poultry waste per year. Any farmer while working for a neighbor in agriculture production, and not advertising, nor holding themselves out to be in the business of land applying poultry waste shall not be classified as a commercial poultry waste applicator, but as a private poultry waste applicator.
- A private poultry waste applicator is any person who is not a commercial poultry applicator but engages in the land application of more than ten (10) tons of poultry waste per year for purposes including, but not limited to, producing any agricultural commodity on property owned or rented by the person or the person's employer, or if applied without compensation other than trading of personal services between producers of agriculture commodities, on the property of another person.

What is the process to become a Poultry Waste Applicator?

According to O.S. 2§10-9.17, "Applicator certificates shall be issued by the Board, to applicants who qualify under the provisions of the Oklahoma Poultry Waste Applicator's Certification Act. Certificates shall be issued only upon application therefore 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."

All commercial applicator certificates expire on the thirty-first day of December following their issuance or renewal. There is a Fifteen Dollar (\$15.00) registration fee for every initial application. Thereafter, a Fifteen Dollars (\$15.00) registration fee will also apply to every renewal application. All private applicator certificates are in effect for five (5) years. There is also, a

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Fifteen Dollar (\$15.00) registration fee for every initial application for certification and renewal application. However, if the private applicator is also registered pursuant to the Oklahoma Registered Poultry Feeding Operations Act, the renewal fee is waived.

Every certified poultry waste applicator, both commercial and private, should file an annual report regarding all poultry waste which was applied to land for the time period from July 1 of the previous year through June 30 of that year, by December 31 of each year. According to O.S. 2§10-9.18., the annual reports should contain the following information:

- ⇒ The legal description and conservation district where the poultry waste was produced;
- ⇒ The legal description and conservation district where the poultry waste was applied to land;
- ⇒ Date of each application;
- ⇒ Total and per acre amount of each application;
- ⇒ Name and address of the person for whom poultry waste was applied;
- ⇒ The most recent soil test results obtained; and
- ⇒ Such other information as may be required by ODAFF.

All applicators who seek to obtain a renewal certificate should submit the annual report along with their application for renewal. No renewal certificate may be issued without the submission of this report.

Testing Results?

During our review of 25 case files, it appears that the Poultry Waste Applicator case files contain the required documentation to ensure compliance with applicable laws and regulations. In addition, it appeared that each annual report submitted, contained the required information. However, of the 25 case files in our sample, we did note two instances where Poultry Waste Applicators did not submit an annual report with their application for a renewal certificate and the renewal certificate was still granted.

RECOMMENDATION

We recommend the AEMS Division review current policies and procedures to ensure they are adequate to facilitate compliance with applicable laws and regulations regarding the issuance of poultry waste application certificates. We also recommend that no Poultry Waste Applicator certificate be issued unless all provisions of the Poultry Waste Applicator Certification Act are met.

**VIEWS OF
RESPONSIBLE
OFFICIALS**

The AEMS Director and personnel will adhere to established procedures to make sure that they are in compliance. ODAFF Legal staff will audit and ensure compliance before the issuing of license(s).

IV. Determine if complaints made to the Agriculture Environmental Management Services Division were documented and resolved in accordance with the applicable laws and regulations.

METHODOLOGY

Internal Controls for documenting and resolving complaints made to the AEMS Division were documented and considered through a review of the division's policies and procedures, surveys, and interviews with the division's staff. In addition to the internal controls, the following testing procedures were performed:

- Determine for each complaint made, the following procedures were performed and documented in writing according to OAC 35:17-5-9:
 - The person filing the complaint was notified in writing of the receipt and status of the complaint within five working days.
 - The party whom the complaint was filed against (if known) was notified within five working days.
 - The complainant was notified within seven days after the resolution of the complaint.
 - The owner (for whom the complaint was filed against), was notified within seven days after the resolution of the complaint.

OBSERVATIONS

How are complaints filed with AEMS Division?

In reviewing the AEMS Division's policies and procedures, complaints may be filed by phone or in writing. The process of filing and resolving a complaint is as follows:

- Receiving a complaint.
 - If a complaint is received by phone, the "Complaint Form" is completed while the AEMS Division employee is on the phone with the complainant.
 - Pertinent information is received from the complainant which includes telephone number and driving directions to the complainant and facility.
 - In the complainant's words, explain the general nature of the complaint.
 - Include species, and number of animals/poultry involved, if known.
 - Include the time and date that the problem began and ended.
- Anonymous complaints.
 - If the complainant does not want to leave a name or any identifying information, indicate the complainant as anonymous.
 - If filing anonymously, the complainant will not receive any correspondence relating to the complaint, including the final decision.

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD AND FORESTRY
AGRICULTURE ENVIRONMENTAL MANAGEMENT SERVICES DIVISION
PERFORMANCE AUDIT**

- Indicate the date and time received on all complaints
- Assign a complaint number and assign complaint to the appropriate inspector.
- Deliver complaint to AEMS Division Director or designee.
- Notify appropriate inspector by telephone immediately and deliver a copy of the complaint and other pertinent information to the inspector.
- Complete within 48 hours of complaint receipt:
 - Log the complaint into the complaint database,
 - Send an acknowledgement letter to complainant, and
 - Create a paper file and place in the “Open Complaints” book.
- Within ten working days of the inspector’s receipt of the complaint, unless otherwise instructed by the AEMS Division, the inspector will complete the following tasks:
 - Interview the complainant. Unless the complainant cannot be reached after reasonable attempts, then proceed,
 - Investigate the complaint within five (5) working days,
 - Conduct odor investigation if applicable,
 - Take applicable samples if the complaint involves allegations of a discharge or contaminated water.
 - Deliver samples to appropriate laboratory for analysis,
 - Write report based on all information obtained,
 - Send written report, to AEMS Division.
- Once inspectors report is received:
 - Stamp date received,
 - Place original report in complaint file and forward the entire file to the AEMS Division Director or designee for review,
 - Update complaint status in complaint database.
- Initial Complaint Review and Resolution:
 - Division Director or designee reviews inspector’s report and all pertinent information,
 - Determine if there are any violations
 - Within seven (7) days of determination, notify operator and mail copy to the inspector.
 - Notification of no violations – Close the complaint.
 - Notification of violations may include:
 - Specify corrective action with dates for completion and follow-up inspections.
 - Letter of Warning.
 - Refer to AEMS Division attorney for determination if enforcement action is necessary.
 - Update complaint database and case file.
- Follow-up Inspections:
 - Based on the specific corrective actions and dates for completion, the inspector visits the site periodically and provides written reports detailing the operator’s progress.
 - Provide final written report on operator’s compliance with corrective action.

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- Update complaint database and complaint file.
- Final Complaint Review and Resolution:
 - If final report indicates the facility is in compliance, close the complaint.
 - If final report indicates the facility is not in compliance:
 - Refer to AEMS Division attorney for determination if enforcement action is necessary.
 - Provide new schedule for corrective action, if appropriate and approved by Division Director or designee.
 - Close the complaint upon completion of all appropriate administrative or legal remedies available to the Department.
- Closing the Complaint:
 - Update complaint database and complaint file.
 - Notify complainant and operator of final resolution within seven (7) working days of closing the complaint.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD AND FORESTRY
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 PERFORMANCE AUDIT

How many complaints are filed with AEMS Division during a year?

During fiscal year 2004, the AEMS Division received approximately 255 complaints. The table below illustrates the number and type of complaints:

Table 3 – FY 2004 Complaint Summary		
TYPE	ALLEGATION	NUMBER of COMPLAINTS
Buffalo	Improper carcass disposal	1
Cattle	Improper carcass disposal	39
Cattle	Improper Pest Control	1
Cattle	Improper Waste Management	11
Cattle	Odor	6
Cattle	Over Population	1
Cattle	Possible Water Contamination	6
Dairy	Improper Waste Management	13
Dairy	Improper Waste Application	1
Dairy	Possible Water Contamination	2
Deer	Improper carcass disposal	3
Dog	Improper Waste Management	13
Dog	Odor	3
Goat	Improper carcass disposal	3
Horse	Improper carcass disposal	6
Horse	Improper Waste Management	9
Horse	Odor	2
Mice	Improper Confinement	1
Mice	Improper Waste Management	1
Miscellaneous	Improper carcass disposal	3
Miscellaneous	Odor	2
Miscellaneous	Possible Water Contamination	3
Miscellaneous	Improper Waste Management	1
Poultry	Building Poultry Houses w/o Registration	4
Poultry	Improper carcass disposal	16
Poultry	Improper Pest Control	1
Poultry	Improper Waste Management	23
Poultry	Odor	31
Poultry	Possible Water Contamination	2
Poultry	Improper Waste Application	2
Swine	Improper carcass disposal	8
Swine	Improper Waste Management	12
Swine	Odor	22
Swine	Possible Water Contamination	3
Total Complaints		255

- Based on a review of the table above, several observations were made:
- The largest number of complaints made, were related to Poultry.
 - Most complaint allegations made were related to Improper Waste Management, Improper Carcass Disposal and Odor.

Testing Results?

Based on a review of 25 complaints, four being anonymous, it appears that complaints made to the Agriculture Environmental Management Services Division were generally documented and resolved in accordance with the applicable laws and regulations. However, we did note several instances of noncompliance. The instances of noncompliance are listed below:

- Two instances where a complaint was filed and the party whom the complaint was filed against was not notified in writing.
- Four instances where the complainant was not notified in writing of the resolution of the complaint.
- Twelve instance where the owner was not notified in writing of the resolution of the complaint.

RECOMMENDATION

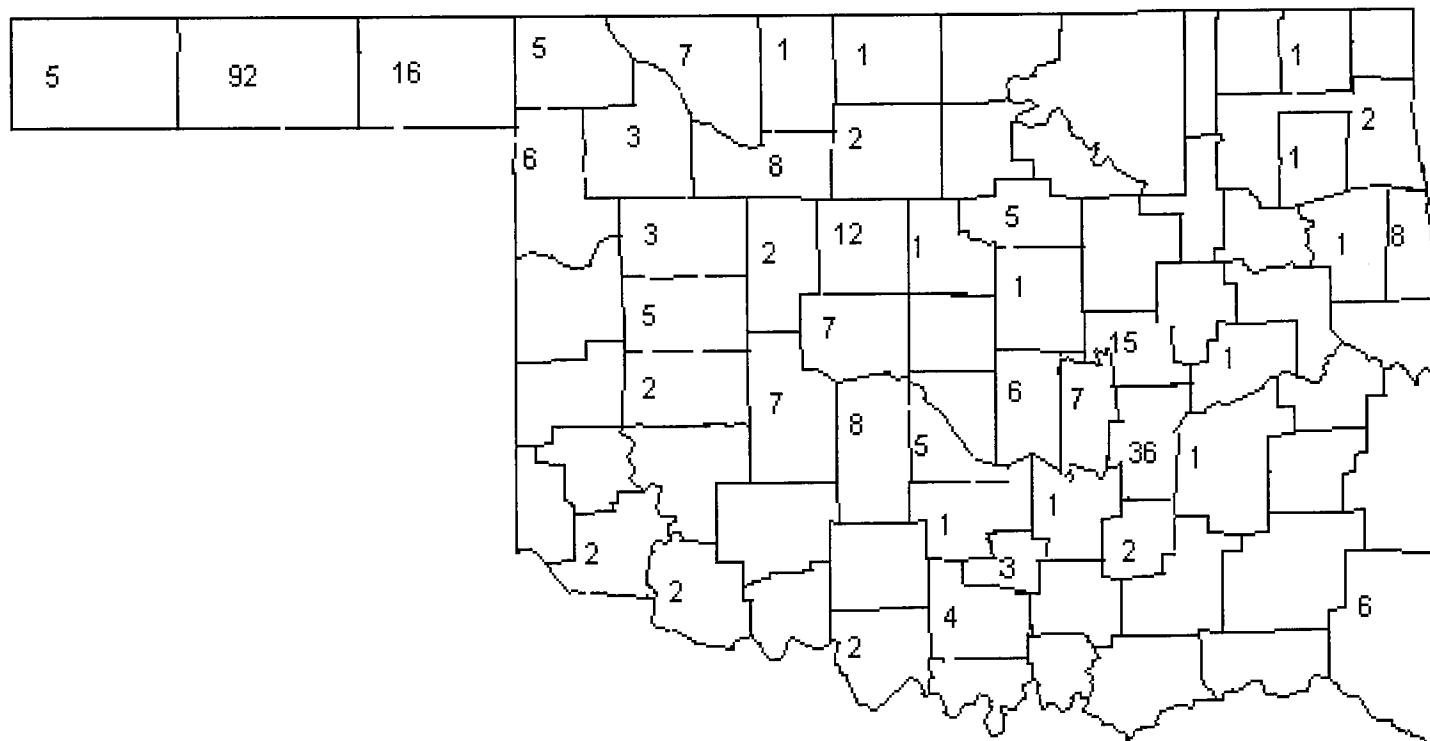
We recommend the AEMS Division review current policies and procedures to ensure they are adequate to facilitate compliance with the applicable laws and regulations regarding the documentation and resolution of complaints. We also recommend that the division update staff on policies and procedures and current laws and regulations to help ensure compliance when documenting and resolving complaints.

**VIEWS OF
RESPONSIBLE
OFFICIALS**

The AEMS Director will issue letters of complaint resolutions to all complainants and persons complained against. ODAFF Legal staff will review and monitor this activity on a continuing basis.

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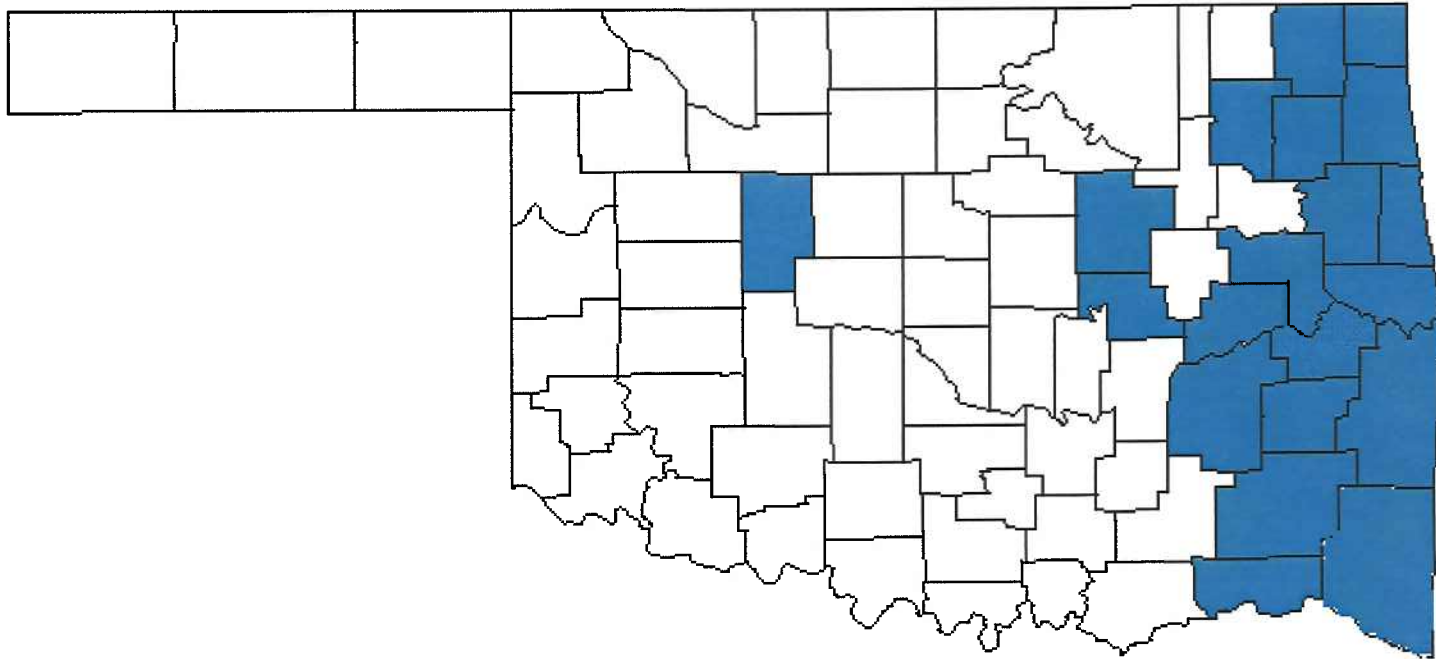
**APPENDIX A
LOCATIONS OF CAFOs**



Note: Each number represents the number of Concentrated Animal Feeding Operations operating within the county.

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**APPENDIX B
LOCATIONS OF POULTRY FEEDING OPERATIONS**



Note: Counties highlighted in blue, represent the counties where poultry feeding operations are located.

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